United States Court of Appeals

for the Second Circuit

APPENDIX

75-7518 ORIGINAL

75-7679

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United States Court of Appeals

FOR THE SECOND CIRCUIT

TELEDYNE INDUSTRIES, INC.,

Plaintiff-Appellee,

against

ODIF PODELL, SIMON SRYBNIK, NICHOLAS ANTON, SAUL WALLER,

Defendants-Appellants,

and

EON CORPORATION and KEKNS MANUFACTURING CORP.,

Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES COURT OF APPEALS
FILED
OCT 26 1976
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SECOND CIRCUIT

JOINT APPENDIX

(Judgment after Trial)

Volume II

(Pages A603 to A1198)

TRUBIN SILLCOCKS EDELMAN & KNAPP
Attorneys for Defendants-Appellants
375 Park Avenue
New York, N. Y. 10022

BREED, ABBOTT & MORGAN
Attorneys for Plaintiff-Appellee
One Chase Manhattan Plaza
New York, N. Y. 10005

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Q Are you one of the original founders of Eon Corporation?

A Yes.

Q Were any other principals involved in the founding of Eon Corporation aside from yourself?

A No.

Q Are you a director of Eon Corporation?

A Yes.

Q How long have you been a director?

A Since its inception.

Q Who are the other present directors of Eon Corporation?

MR. WEINBERGER: I object to the present.

MR. LANG: Go ahead, please answer.

A Odif Podell, Chairman; Saul Waller, Simon Srybnik, Melvin Srybnik. I think that's all. Did I get all? Can you repeat them.

(Answer read back by reporter.)

A (Continuing) And myself.

Q Who were the directors of Eon as of May 1971?

A Well, they changed at that. There is Mr. Leonard--James Leonard who resigned subsequently.

Q James Leonard was a director of Eon in 1971?

A Yes.

us, please?

A I do.

Q That's the 1971 annual report for Eon Corporation?

A Yes.

MR. LAND: I ask that there be marked as Plaintiff's ~~Exhibit Two for identification~~ Tr. Ex. 21 the 1971 annual report for Eon Corporation.

(Document referred to above received and marked Plaintiff's ~~Exhibit Two for identification~~ Tr. Ex. 21.)

Q The first page of the report contains a letter dated August 24, 1971 signed by Odif Podell, Chairman of the Board and yourself as President, and entitled, A Message From Management.

Do you note that?

A Yes.

Q I would like you to read to yourself the second and third paragraphs of that letter (handing).

Are the statements made in the second and third paragraphs of your letter true and correct to the best of your knowledge, information and belief?

A They are.

Q Am I correct that American Marc had no separate corporate identity, but was a division of Eon?

A You said the most important, and I said it was a factor in the elimination of the losses of American Marc.

Q Was this important to Eon?

A Well, obviously yes.

Q Was the subcontract between Eon and Teledyne approved by the Board of Directors of Eon?

A Yes.

Q What meeting of the Board of Directors was that approved?

A I wouldn't remember that. We will have to check the minutes.

Q Having reviewed the minutes of the Board of Directors, you cannot find any minutes which show approval?

MR. WEINBERGER: In the minutes.

Q But you have an independent recollection of the fact that the subcontract was submitted for Board approval?

A That is correct.

Q Do you know when that would be, approximately?

A Somewheres in May or June of '71.

Q Did the Board of Directors of Eon approve the idea and the concept of subcontracting under the

Q Would you personally have received these bid papers in Brooklyn?

A That I don't recollect. Sometimes we do and sometimes we don't.

I would gather they went to American Marc.

Q But in this particular case you had some personal knowledge of the fact that Teledyne had previously bid on a 1.5K generator contract for the government?

A It's very difficult to answer your question.

Simply, in some date it may have been March, the government offered for bid 2300 odd units of the same contract. One of the bidders was Teledyne. Other bidders were other people.

Q I understand that, Mr. Anton. I am trying to determine how you acquired knowledge of this fact?

A Because we received bid requests from the government. We means American Marc and Eon Brooklyn. I don't know which unit now received the request. It most likely went to American Marc, and obviously Mr. Leonard would tell me because we were building part of those units for American Marc.

Q. So in any event, you directed or suggested to Mr. Leonard that he contact Teledyne to see if Teledyne

would be interested in taking a subcontract?

A I didn't mention a specific one. I said, "Why don't you go down the list and find out if these people, having bid much lower prices than what we are getting, would be willing to manufacture for us twice the amount at the same price that they were bidding to the government."

Q Was this done orally with Mr. Leonard or in writing?

A Orally.

Q On the telephone?

A Yes.

Q When would this have been, approximately?

A After the bid was known and what the prices were.

Q When was that?

A These are facts I wouldn't know. It was obviously prior to May, and it was after March.

Q So it would be some time between March and early May?

A Yes, '71.

Q You say that your suggestion or direction to Mr. Leonard--was it a direction or a suggestion?

A It was a suggestion.

Q Did Mr. Leonard report directly to you?

A I am the president of the corporation, and legally he does. He is my subordinate.

Practically speaking, each division always worked independently. We had no controls in a sense that administrative controls that other corporations may have.

Q What about policy decisions? Was Mr. Leonard free to make important policy decisions such as subcontracting with Teledyne on this government contract without getting clearance from you?

A He would have the responsibility to generate the facts and in major items like this one, he would consult with me, yes.

Q And you would have to approve or disapprove?

A Whether he would listen I don't know, but I could approve or disapprove.

Q Your suggestion or direction to Mr. Leonard was taken on your own initiative, without direction from the Board of Directors?

A Yes.

Q When was the matter submitted to the Board of Directors for its consideration?

A Now I am again talking from recollection. It was mentioned to the Board, and it was discussed with members

of the Board, even if it was not a formal meeting. This I have to check my records, the minutes of the corporation, to find out. This was discussed prior to May and after March.

Q What members of the Board was it discussed with?

A Principally with Saul Waller who was a financial advisor on the Board. I wouldn't say advisor. He is the fellow that has more knowledge of financial facts on the Board, and with Mr. Srybnik and Mr. Podell especially.

Q Which Mr. Srybnik?

A Mr. Simon Srybnik.

Q Thereafter the Board was asked to approve the specific subcontract between American Marc and Teledyne?

A Well again, as I said, I cannot find such a resolution in the minutes at this time. All I am saying is I went to Los Angeles on May 12th, I believe. I was enpowered to sign the subcontract.

Q Who enpowered you to sign the subcontract?

A The Board.

Q So that the subcontract was considered by the Board before you went to Los Angeles on May 12th?

A The contract wasn't even drawn or drafted or shown to me, so I was enpowered to subcontract to Teledyne the units of $350.00 at that time, which was the bid Teledyne had made.

Q Was this done at a formal meeting of the Board of Directors of Eon?

A Again I don't find the resolution, so I can't tell you that, but I assume that it was.

Q Thereafter was the Board advised of the terms and conditions of the subcontract?

A Yes.

Q Was this done at a formal meeting of the Board?

A Again I don't find the section in the minutes of the Board. The Board minutes do not reflect every word that you say at the Board.

Q But I am talking about your independent recollection, quite apart from what you are able to find in the minutes.

A It definitely was discussed with the Board.

Q And approved by the Board?

A I would say so, yes.

Q How frequently did the Board of Directors of Eon meet in the period in or about May of 1971?

A Yes.

Q Did Mr. Leonard report to anyone other than yourself?

A Mr. Leonard also works for S & S which is a corporation --but I don't if it is a corporation--which is a company which is owned by the Srybnik brothers.

Q By the Srybnik brothers, you mean Simon and Melvin Srybnik?

A No, Simon, Louis, and Jay.

Q Simon, Louis and Jay?

A Julius.

Q And Melvin is not connected with that corporation?

A Melvin is a nephew of the brothers. He is the son of one of the brothers who is dead. He is a nephew of the brothers.

Q And this is the S & S corporation?

A That is correct.

MR. LANG: He said Mr. Leonard was also an officer of that corporation.

Q Do I understand, then, that at the same time Mr. Leonard was the chief operating officer of the American Marc Division of Eon, he was also employed by the S & S Corporation?

A That is correct.

Q What percentage of Mr. Leonard's time was devoted to the affairs of Eon, and when I use Eon, American Marc, I may be using them interchangeably--do you understand that?

A Yes.

Q You said you were present in Los Angeles on May 12, 1971, is that correct?
A Yes.
Q When did you arrive in Los Angeles?
A Well, I took a nine o'clock plane out of here, so I should have gotten there about one o'clock.
Q What was your purpose in going to Los Angeles on May 12, 1971?
A To meet with Mr. Leonard and Mr. Rouse and Mr. Coleman and finalize and sign the subcontract.
Q How were you advised that Mr. Rouse and Mr. Coleman were in Los Angeles about that time?
A Mr. Leonard advised me by telephone.

Q When?

A A day before or two days before.

Q What did he tell you?

A That there were serious negotiations going on with Teledyne, and that we were close to signing an agreement.

Q Did he ask you to come to Los Angeles?

A Yes.

Q Was it necessary for you to go to Los Angeles to sign that agreement?

A We could have enpowered Mr. Leonard to sign it, but it was thought best by all the directors that I would go along.

Q Mr. Leonard at this time was--

A Vice president.

Q And director of Eon, is that correct?

A Yes.

Q So after you got a call from Mr. Leonard you conferred with the directors?

A I would think so, yes.

Q Who did you confer with?

A All the directors.

Q Was that by telephone?

A Yes.

Q The directors instructed you to go to Los Angeles to sign the agreement?

A That now I don't recall, whether I was instructed or whether I just told them that Mr. Leonard had called, and I would like to go, and if they had no objection I would go.

Q How long did you remain in Los Angeles?

A I left Los Angeles the day after, May 13th, at five o'clock.

Q Would you please describe from the time you arrived in Los Angeles till the time you departed, what discussions you had with Mr. Leonard, Mr. Rouse or Mr. Coleman with respect to the proposed subcontract between Eon and Teledyne?

MR. WEINBERGER: I object to the form of the question because the question implies that a discussion was held with each of the persons you named with reference to the subject matter; and I am not sure if that's the case.

MR. LANG: If any. The question always implies "if any".

A To my recollection, I first met with Mr. Leonard, and he acquainted me with the general situation, general negotiations that had already gone on.

Q I would like as precisely the conversation, not the conclusions?

Where did you meet with Mr. Leonard first?

A Again now, I don't remember exactly whether he picked me up or whether I went by cab to his office which is very close. I don't remember.

Q Close to the airport, you mean?

A Yes.

Q What did Mr. Leonard tell you?

A He told me he had conversations with Teledyne, and he explained to me that the price of the contract at $350.00 was a quest of negotiations. Would I agree with him at a higher price than what Teledyne had bid to the government.

MR. LANG: I am sorry. I didn't get that.

Would you read that back, please?

(Answer read back by reporter.)

A (Continuing) In other words, Teledyne had bid to supply to the government the same unit, that part of the subcontract, for $350.00, something like that; and Teledyne was acquiring a higher price from American Marc to enter into a subcontract.

Q What did you say?

A I don't remember exactly the thing, but by the time

we got through, I agreed to the $360.00 which was $10.00 higher.

Q What else was said?

Do I understand correctly that at this meeting neither Mr. Rouse or Mr. Coleman were present?

A No, I just discussed this with Mr. Leonard.

In other words, when he was bringing me up to date in the negotiations that had already taken place.

Q Was anyone else from American Marc present at the discussions you had with Mr. Leonard?

A Not to my knowledge.

Q What else was discussed at this first meeting you had with Mr. Leonard?

A Also the big discussion was in my inquiring of him whether Teledyne was competent to handle the contract from a technical standpoint mostly, and that was also the subject of the subsequent conversation with myself and Mr. Coleman and Mr. Rouse.

Q What did Mr. Leonard say with respect to whether or not Teledyne was competent to handle the subcontract?

A That to the best of his knowledge they had not manufactured units similar to this one, but that a large company could always find the talent to do the job.

A Between May 12th and May 13th, we had several meetings with Mr. Rouse and Mr. Coleman and Mr. Leonard; some of them at I think it was in some--I am uncertain whether at some hotel or the American Marc office; and we simply discussed the same points that I mentioned right now, and then we decided to--Mr. Rouse made several telephone calls to his office I assume, or some place, and finally we arrived at an agreement that the price would be $360.00 and the discount on inventory would be 25 per cent.

Then we went to the attorneys.

MR. WEINBERGER: Excuse me, Mr. Lang. Would you object if we took a ten minute break? I would like to make a personal call.

MR. LANG: Sure.

(Recess.)

(After recess.)

Q I think when we took the recess, you testified that after your conversation which you had with just Mr. Leonard, you thereafter had conversations with Mr. Rouse and or Mr. Coleman, is that correct?

A That is correct.

Q At these conversations was anyone else present?

A The same subject.

Q What do you mean by "The same subject"?

A That I mentioned before.

Q Those subjects were discussed at the lawyer's office?

A Yes, they were being reduced to writing.

Q That was the subject of the discussions. No other subjects were discussed at the lawyer's office?

A I don't recollect them. I don't remember any other subjects that were. You know, maybe they were discussed. There is no question that most likely they discussed other subjects, but they were not of such magnitude as sticking in my mind, such as the price.

I know I objected strenuously to the difference in price, because I did not think it was justified, but I agreed to it, so that's why I remember that one.

Q In any event, did you take back to New York with you a copy of the purchase order?

A Yes.

Q Did you take back to New York with you a copy of the document which you said was on legal paper?

A Yes.

Q Were they documents executed at the lawyer's office?

A Yes.

Q Do you have a recollection of having signed the document that was on legal paper?

A I think so, yes.

Q When you got back to New York, did you send copies of the purchase order and the agreement to any of the other directors of Eon?

A I am quite certain they saw the agreement; whether I gave them copies or not, that I don't know.

Q How could they have seen it unless you gave them copies?

A We discussed this thing continuously, not just this item but other items.

Q You mean back in New York?

A Yes.

A Yes.

Q Were you present at this meeting of May 12, 1971 when the subject matter of this paragraph one was discussed?

A As I was mentioning before, there was a lot of conversation that may have been discussed while I was there. This was not one of the very important points that stick in my mind.

Q You have no present recollection of any such discussion?

A No.

Q Did there come a time where Mr. Leonard advised you that Eon was to set up a special account at the Bank of America for Teledyne Continental Motors?

A Yes, this was subsequent. I don't know whether it was a month or two after the original agreement, Mr. Leonard informed me that he had received a call from somebody at Teledyne where they wanted to renegotiate some of the clauses in the agreement, and that's about it.

Q What did he tell you? Was this on the telephone?

A Yes.

Q And you say this was then about a month or

A Yes.

Q Were you present at this meeting of May 12, 1971 when the subject matter of this paragraph one was discussed?

A As I was mentioning before, there was a lot of conversation that may have been discussed while I was there. This was not one of the very important points that stick in my mind.

Q You have no present recollection of any such discussion?

A No.

Q Did there come a time where Mr. Leonard advised you that Eon was to set up a special account at the Bank of America for Teledyne Continental Motors?

A Yes, this was subsequent. I don't know whether it was a month or two after the original agreement, Mr. Leonard informed me that he had received a call from somebody at Teledyne where they wanted to renegotiate some of the clauses in the agreement, and that's about it.

Q What did he tell you? Was this on the telephone?

A Yes.

Q And you say this was then about a month or

two after the May 12th agreement?

A Yes, sometime after.

Q What did Mr. Leonard tell you?

A That in accordance with the information we had conveyed to Teledyne of the poor financial condition of the Eon Corporation, that they required some assurance that they would get paid.

Q What did you say?

A I told him, "Go ahead and negotiate".

Q What happened after that?

A I don't know.

Q You were never advised?

A Well, it's possible that--I am sure if you check the correspondence you may find something--yes, obviously when he got through with it, I received, as a matter of fact, I seem to recollect now ~~it~~ he went to Teledyne and then came back to New York, that they had some kind of meeting with a Mr. Anderson. I may have the name wrong, and then he came back to New York and reported that everything was in order.

Q Is it your testimony today, Mr. Anton, that the first time you knew of the agreement between Eon and Teledyne for the setting up of a special account was about a month or two after the May 12, 1971 date?

A No, I don't know.

Q Were you advised by Mr. Leonard or by anyone else that Eon had in fact established a special account with the Bank of America for Teledyne?

MR. WEINBERGER: Again with the qualification as to the--

MR. LANG: I am asking whether or not he was ever advised of this?

A Such a special account existed at least six months or a year before; and any mention of these things are there. This account could not have been established specifically for Teledyne. It existed.

Q What kind of special account was it?

A It's a special account where moneys received from the government were deposited and bills were paid from it; and I told you, Canron--I think it was established at the time of the Canron.

Q I am asking you a different question, Mr. Anton. I am asking you if you were ever advised by Mr. Leonard or anyone else that Eon or American Marc had established a special account at the Bank of America for Teledyne?

A You see, that question implies to me anyway that a special account was set up out of the blue sky, especially

for Teledyne. That never occurred. That account existed.

Q So you would never have been advised?

MR. WEINBERGER: He was never advised in the terminology that you use in your question.

A That special account that existed was suggested and used subsequently for Teledyne. That is a fact. You can ask it 40 times around. There was a special account which existed, and Teledyne made use of that account, or American Marc, for Teledyne; and that's it.

Q What do you mean by a special account existed? What kind of account was it?

A You called it a special account. I called it a bank account where moneys were deposited by the government and suppliers were paid out of it.

Q That account you say had existed for six months prior to the May 12, 1968 date?

A It existed from Canron.

Q In whose name was this account?

A American Marc.

Q You say only moneys paid by the government were deposited in this account?

A I don't know.

MR. WEINBERGER: I object to the form of the

Q I show you a copy of what was marked as Pl. Tr. Ex. 6 ~~Defendant's Exhibit C,~~ and ask if you have ever seen that letter before?

A I think so. It's part of our file. I may have.

Q When, to the best of your knowledge, did you first see this letter, Mr. Anton?

A I have no recollection.

Q No recollection at all?

A No.

Q Do you think you saw it on or about the date it bears, May 13, 1971?

A I have no recollection.

Q Did you receive a copy of this letter from

Mr. Leonard?

A It's entirely possible. I have no recollection.

Q There was marked as ~~Defendant's Exhibit D for identification~~ Pl. Tr. Ex. 8, a letter from Mr. Leonard to Bank of America, Mrs. Fern Guy, dated May 25, 1971; and I ask you if you have ever seen a copy of this letter (handing).

A Yes, I have seen it before.

Q When did you first see a copy of this letter?

A I don't know.

Q Was it recently, in the last week, two weeks?

A No, that's a substantial time ago.

Q Did you recieve a copy of this letter from Mr. Leonard?

A Well, I would have to check my files. I would think so, yes.

Q Would you think you had received it on or about the date it bears?

A I wouldn't know that.

Q Have you ever met Mrs. Fern Guy?

A No.

Q Have you had correspondence with Mrs. Fern Guy?

A Yes.

Q Who is Mrs. Guy?

A Someone who works at that branch of that bank.

Q Bank of America?

A Yes.

Q Did you have any discussions with Mr. Podell, Mr. Simon Srybnik, Mr. Waller, with respect to the Bank of America account?

MR. WEINBERGER: Will you specify a time?

MR. LANG: If you could, prior to the institution of this litigation.

If he says no, I will not go further. If he says yes, I will go into the time.

Q Did you have any discussions with either Mr. Podell, Mr. Srybnik, Mr. Waller, with respect to the Bank of America account prior to the institution of this litigation?

A You have to understand that we regarded, at least I regarded and New York regarded this matter as an extremely small, minor matter, which goes along with other minor matters of the situation; and that this is part of Mr. Leonard's business.

So yes, we discussed this thing over the telephone. So he might tell me, "I did this or that."

"Fine."

So now you expect me to recollect what I said? It's impossible.

I am aware of the special account. I am aware of the method of payment to Teledyne out of the funds that were received by DCSAR.

Q What were you aware of? You said you were aware of the payment to Teledyne out of the funds received from DCSAR?

A I was aware, there was absolutely no problem in paying Teledyne out of the setup that Mr. Leonard had set up.

Q What was the setup that Mr. Leonard had set up?

A To take the money that was coming from the government for this contract, put it in this special account, and pay Teledyne when the bills are due.

Q You were aware of that?

A Yes.

Q Did there come a time when the Board of Directors of Eon passed a corporate resolution which instructed that the only people who would be able to draw money from the account in the Bank of America were people in New York; namely, yourself, Mr. Waller, Mr. Podell and Mr. Srybnik?

A As I already explained, that was at the time when Mr. Leonard did not want to be continuously involved with the American Marc situation, which is at the time of his resignation.

Q So that the answer is yes, there did come such a time?

A Yes.

Q Did you personally direct or have an overall responsibility for the withdrawal of funds which had been deposited in the special account in the Bank of America?

A Yes, I did.

Q Did you do this with the approval of the Board of Directors of Eon?

A It did not require any approval. That was an administrative function.

Q You never discussed this with the Board of Directors, is that correct?

A No, that is very false.

Q Tell us, you did discuss it with the Board of Directors?

A That is correct.

Q What was the nature of any discussions?

A I don't recall. I told them I would move the money, that's all.

Q There was no discussion with respect to it?

A I imagine there must have been some discussion. I don't know whether it was at that time or two months or three months after. I don't know exactly the day we discussed that. The general feeling was that Mr. Leonard's connection with Eon was coming to an end, and that the funds should be transferred to accounts where he himself with Mr. Walck could not transfer funds.

Q Were your withdrawals on behalf of Eon from this special account at the Bank of America considered or approved by the Board of Directors of Eon?

Anton 61

THE WITNESS: My testimony is that the Board

members were aware of the situation; I don't know whether before or after, and it was at my direction that the transfer occurred.

BY MR. LANG:

Q Did you discuss with anyone before you made withdrawals from this special account the legal implications of those withdrawals?

A Not to the best of my recollection.

Q To the best of your recollection, did the Board of Directors consider the legal implications of these withdrawals from the special account?

MR. WEINBERGER: If you know.

A All depends and this is when--you know--because I seem to have discussed this with one of Mr. Feldshuh's associates, Mr. Frank, but this may have been in June now. I don't know when.

Yes, I did discuss it with Mr. Frank who was a partner in Feldshuh & Frank.

Q Would this be before you made the withdrawals or subsequent?

A I do not know.

Q Do you know Mr. Homer Coleman?

A Yes.

Q You met him in Los Angeles?

A Yes. I met him several times after that.

Q He was an officer of Teledyne?

A He said he was.

Q Did you ever meet Mr. Earl Kotts?

A Yes.

Q Do you know what position Mr. Kotts has?

A When he appeared in my office he said he was a counsel in Teledyne.

Q You say when he appeared in your office. When did he appear in your office?

A Well, this should be a matter of record, some place. I don't remember the date, but it's somewheres near, I would say in May of '72.

Q Was Mr. Kotts accompanied by anyone when he appeared in your office?

A Mr. Coleman.

Q Mr. Coleman and Mr. Kotts appeared in your office?

A Yes.

Q During the course of that meeting did you advise Mr. Coleman or Mr. Kotts that it was a Board decision, a Board of Directors' decision of Eon to withdraw funds which had been deposited in this special account for purposes other than to pay Teledyne?

A Yes. I met him several times after that.

Q He was an officer of Teledyne?

A He said he was.

Q Did you ever meet Mr. Earl Kotts?

A Yes.

Q Do you know what position Mr. Kotts has?

A When he appeared in my office he said he was a counsel in Teledyne.

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Q Was Mr. Kotts accompanied by anyone when he appeared in your office?

A Mr. Coleman.

Q Mr. Coleman and Mr. Kotts appeared in your office?

A Yes.

Q During the course of that meeting did you advise Mr. Coleman or Mr. Kotts that it was a Board decision, a Board of Directors' decision of Eon to withdraw funds which had been deposited in this special account for purposes other than to pay Teledyne?

A I discuss it with them. I spoke to Mr. Srybnik twice last week, and we discussed what happened. I spoke to Mr. Podell yesterday, discussed what happened. I discussed with Mr.Saul Waller and maybe last week, and we talk about what happens.

Q Is this generally the practice of close communication between yourself and other members of the Board?

A Yes, absolutely.

Q Exceedingly close in terms of a corporation?

A That's your words. We talk.

Q How frequently would you talk?

A Sometimes we talk three or four times in a day; sometimes we don't talk to each other for three, four weeks.

correct category. there are parts of that which may be correct or incorrect, and the form of your question, addressing itself to the entire sentence I think is improper.

MR. LANG: This witness can answer if in any respect he differs from that.

Q It says, "As you know, shortly after the first of the year when the accounting department of American Marc was removed from the payroll, the Board of Directors decided that all financial control be handled out of New York."

To the best of your knowledge, is that statement a correct statement, or do you disagree in any respect with that?

A That statement was correct at one time. Mr. Leonard and Mr. Walck came to New York to deliver some records somewheres near Christmas; in other words, the end of December 1971; and I had our accountants, the local accountants in.

It was decided at that time that because of the complication and the transfer of accounting, that Mr. Walck would remain as a consultant and all the records were sent back with him that he needed; so while at one time the accounting department, Mr. Walck, brought the

records to New York, the same trip on his way back, he took them back.

For as much as control of finances, really the only control of finances was paying bills of American Marc. That's the only finances involved. The only income was the income from the Army payments on the one and a half kilowatt contract, so if you controlled those finances by taking the money in here and paying out to this guy, that's the control that we had on it, yes.

Q In New York?

A In New York.

Q Mr. Leonard's letter further states, and I quote:

"We were advised at that time, referring to shortly after the first of the year, that all checks were to be deposited to the--"

MR. WEINBERGER: May I take a look at what you are quoting from? May I take a look at the letter?

MR. LANG: I can quote the letter.

MR. WEINBERGER: May I look over your shoulder?

MR. LANG: Don't you have a copy of these

documents?

MR. WEINBERGER: I don't have that one. I want to see if you are quoting correctly.

MR. LANG: Not over my shoulder.

MR. WEINBERGER: I don't know why you take umbrage.

MR. LANG: I will read it and you can look at it before the witness answers.

MR. WEINBERGER: All right.

BY MR. LANG:

Q Mr. Leonard writes:

"We were advised at that time that all checks were to be deposited to the Eon account which had replaced the American Marc account."

My question is, is that a correct statement that Mr. Leonard, or is there any part of that statement with which you disagree?

MR. WEINBERGER: Please read back the quotation.

(Quotation read back by reporter.)

A At the time of Mr. Leonard's decision and Board decision to terminate his vice presidency and his directorship, I wrote to Mrs. Fern Guy to establish another account in the same bank in the same place with different

signatories then with the special account which existed then, and that account was established as American Marc Division of Eon Corporation with different signatories.

If Mr. Leonard calls that the Eon account, that's his privilege. That account is an account that is, American Marc Division of Eon Corporation with different signatories.

Q Mr. Leonard's letter goes on to state, and I quote:

"According to a memo from Mr. Waller, the Board apparently approved the motion to transfer the account."

A To establish the new account at the same branch of the bank in the same location; a copy of a resolution of the Board was sent to Mrs. Fern Guy with the signature card.

Q When we adjourned for lunch, Mr. Anton, right before we adjourned for lunch, I was examining you with respect to Plaintiff's ~~Exhibit Five for identification~~ Tr. Ex. 22 which was Mr. Leonard's letter to Mr. Simon Srybnik dated June 21, 1972.

I would like to read to you now from the second page of that letter, paragraphs two and three on that page:

"In addition to the above information I would like to point out to you since I am not sure that you know this for a fact, in April we received a check as a progress payment on our contract from the government for approximately $212,000.00. This check was deposited into the Eon Corporation account in accordance with the procedure that Mr. Anton, Miss Retana and Eon Corporation check which would cause these funds to be paid to Teledyne against our Purchase Order to them on this contract was made out and mailed to New York for signature and

mailing to Teledyne. In late April we received another check from the government for approximately $218,000.00 in payment from our progress payment request. The same deposit procedure and check procedure was followed and the check was sent to New York for signature by Eon. The writer took a short vacation to Europ beginning the last week in April and during this period apparently Eon New York decided not to send these checks to Teledyne. From what I can gather, during my absence Mr. Anton directed that these checks be held. Prior to my return, however, Mr. Anton directed apparently that one of the checks be mailed to Teledyne."

To the best of your present recollection, Mr. Anton, are these statements in Mr. Leonard's letter correct?

A Well, with the exception of that Eon account. Again, he refers to the Eon account which is the American Marc Division of Eon Corporation account at the same bank.

Q Otherwise those are correct statements?

A Yes.

Q Who is Miss Retana?

A Miss Retana is a secretary of Mr. Leonard or she is his secretary.

Q According to this letter, Eon received two checks from the government in April?

A Well, this is a little bit misleading. American Marc received the two checks, yes.

Q When I refer to American Marc, it was merely a division of Eon, is that correct?

A Right.

Q American Marc, if you will, received two checks in April on progress payments under the contract; one for $212,000.00 and one for $218,000.00?

A That's what he says.

Q Both according to Mr. Leonard were checks drawn on the bank in California, sent to New York for signature to be sent on to Teledyne for payment to Teledyne invoices; and according to Mr. Leonard, one of those checks was in fact sent on to Teledyne and one was not sent on to Teledyne, is that correct?

A To my recollection, the procedure is not right. The check was deposited. The government check was deposited in the bank. His secretary, Miss Retana, then made out the checks to be paid to Teledyne and sent it to New York for signature, the additional signature, because it required two signatures, which Mr. Leonard could have been one if he was there, or the

two signatures in New York. And these two checks were received in New York, signed and sent back.

Q Sent back to whom?

A To Retana.

Q Both checks were signed and sent back to Retana?

A Yes.

Q You are certain of that?

A I think so. I am only talking about my recollection.

Then when Miss Retana received them, she deposited one of the checks at my direction in the account there to be issued to Teledyne. It's a cashier's check from the Bank of America. The other check I told her to hold back.

Q I think I am confused. Let me see if I can straighten it out.

As I understand it, are you saying that before the government check could be deposited in the American Marc-Eon account, it required two signatures?

A No, it was deposited by American Marc, let's say in the American Marc account.

Q So that both of the checks received from the government in April were deposited in the American

Marc account at the Bank of America?

A Right.

Q Two checks were drawn by Miss Retana, made payable to Teledyne?

A No. They were made payable to the bank to be used to purchase a cashier's check to Teledyne. Teledyne received, to the best of my knowledge, and I don't have first hand knowledge, only what I know, checks from the Bank of America which were issued by the Bank of America on funds that were specifically deposited by American Marc for that purpose.

Q Now I think I got it. So that Miss Retana drew two checks to be drawn on the Bank of America which she sent to New York for signatures. You signed both of those checks and sent them back to Miss Retana?

A Yes.

Q Miss Retana deposited one of those checks with the Bank of America; and the Bank of America to the best of your knowledge issued a cashier's check to Teledyne?

A Right.

Q With respect to the other check which I gather was for $218,000.00 or $212,000.00--

A Either one.

BY MR. LANG:

Q Did the Board of Directors of Eon know that you had instructed Miss Retana not to issue the second check in April to Teledyne?

A Well, you said April. I don't know the dates, but certainly the Board was conversant with my thoughts, but if I would pay Teledyne those two checks in question, the compan would be completely without funds to keep alive for one week; so therefore they knew about it.

Q Did you discuss this with the Board before you took action?

A The Board is a piece of wood. I discussed it with Mr. Simon Srybnik, Mr. Waller and Mr. Podell.

Q Did they approve of what you did?

A They did not order me not to do it.

Q Did they express any disapproval?

A Well, I imagine they did not disapprove. I don't know whether they told me, "Yes, go ahead and do it," or whether they said, "If that's what you want to do."

They did not prohibit me from doing it.

Q You testified as to your understanding of the special account in California?

A Yes.

Q Was that also the Board's understanding?

A Well, you will have to ask them, but I don't see why it should be different. They are the facts.

Q Did you express your understanding of the special account situation to the Board, let's say in January or prior to January or February of 1972?

A I don't recall, but I think that that's something that everybody knew.

Q Was it discussed at meetings?

A I don't know.

Q You have no recollection of discussing it with Mr. Waller or Mr. Podell or Mr. Srybnik?

A I am positive that I did discuss it, especially at the time we set up the account on the Canron matter, which again can be apparent from the record, six months to a year before that.

Q Did Mr. Leonard receive any compensation from American Marc after he resigned as a director and officer?

A He got the $12,000.00. He received the $12,000.00.

Q How did he receive that, by check?

A Yes.

Q Was that paid monthly?

A I would have to consult the records. I think he was paid in two or three or four times. I don't know exactly.

Q Am I correct that after Mr. Leonard resigned as a director of Eon in January of 1972, he was thereafter not authorized to act on behalf of Eon or American Marc in any respect?

A Well, that's just supposition, right? He is supposed to be from January to December of this year a consultant to Eon at $12,000.00 a year.

You asked me if there was a written agreement and I said no.

Q I said is there an agreement?

A I understood it was a written agreement. He was told by the Board after his resignation he would keep on working exactly as he had; only as a consultant at $1,000.00 a month until we tell him to stop, but not more than one year.

Q And the one year would expire December 31, 1972?

A Yes.

out and sent it out and I signed it and sent it back.

Q Prior to that time, when he was an officer, he would fill it out and sign it himself?

A Yes.

Q The January payment of $159,732.00, was that money deposited in the special account?

A I would assume so, yes.

Q After depositing in the special account, was it paid out to Teledyne?

A I would assume that.

Q All of it?

A I don't know that. The two amounts do not need to be the same.

Q How would that work?

A Well, Teledyne would bill American Marc for units shipped at the price of the purchase order. They also would perform services at so much per hour as in the purchase order or amendments; and those invoices would then be received by American Marc, and once a month they would take all the invoices that they received and make up a partial payment request.

Now they may have had some expenses or whatever they did, I don't know, and they would add them or subtract them or do whatever they thought was proper

and make up the request to the government; so the amount received sometimes, or most of the time was smaller than the amount of the bill from Teledyne.

Q What was the precise payment procedure?

A He would do the whole work and send me a piece of

paper which I signed and sent back to him.

Q What was the whole work he did?

A He had to take the invoices, compute out the differences--I don't know what he did--and he sent in the partial payment which I signed and sent back to him, or it was a check which I signed and sent it back to him, because he had made up the check.

I didn't have any means here of checking whether his computations are correct or not. I acted as a signator. Anything he did, I have no reason to think that he was in error.

Q So you would not send the check that was to go to Teledyne directly back to the bank. You would send it back to Miss Retana?

A Yes.

Q And she in turn would send it back to the bank?

A That you would have to ask her. I don't know. That's what I did. Maybe he sent a messenger. I don't know.

All I know, I signed the check and sent it back to him, because he was not authorized to sign by himself or whatever he used to do before. Now he needed either two signatures--mine and his, or mine and Waller

or all the signators that I mentioned before.

Q But he was authorized to be at least one signatory on the check, is that right?

A It depends on which of the accounts. I would have to check the records on that.

Q How many accounts were there?

A Two, as I told you. Since after January we established an account on which he could not sign by himself or with Walck, but required a signature from one of the three guys in New York.

Q That was the Eon American Marc account that you are talking about?

A There was a second account in addition to the special at the same branch.

Q Let me see if I can understand this. When was the second account established?

A In January, something like that. You can check the records. Maybe it was December. Maybe it was February. I don't know.

Q But thereabouts in 1972?

A Yes.

Q January or February of '72 or maybe even December of '71?

A Could be.

Q And this was a new account?

A Yes.

Q Into that account was there deposited the payments received from the government on the generator set contract?

A Yes.

Q What was the other account to which you are referring?

A It was inactive at that time. In other words, in the same bank there were two accounts; the old special account on which Leonard and Walck could sign, and the parallel account on which they could not withdraw money without an additional signature.

Q Up until January or February of '72, all the money received under the government contract was deposited into the special account?

A Yes.

Q Thereafter when you opened the new account, the payments received from the government were deposited in the new account?

A Yes, you could call it special too.

Q You could call it special, but I want to know what the function was; that after January or February the government deposits were deposited in the new

account?

A If you want to call it a new account, yes, the new account, yes.

Q Mr. Anton, I show you what purports to be a letter from Mr. Leonard to Messrs. Simon Srybnik, Odif Podell and Nicholas Anton dated April 3, 1972; and stapled to that letter is a two page document headed "Amendment of Solicitation/Modification of Contract," and I ask you if you can identify this letter and the attached document?

A Yes, I can identify it.

Q Do you recall receiving a copy of that letter?

A Yes.

MR. LANG: Would you please mark that as Plaintiff's ~~Exhibit Nine for identification~~ Tr. Ex. 24.

(Document referred to above received and marked Plaintiff's ~~Exhibit Nine for identification~~ Tr. Ex. 24.)

Q Mr. Leonard here says that on March 21, '72 he successfully negotiated an increase of $60,348.86 to the contract of the second year procurement. He says this is a 4 per cent escalation clause.

Was any of this increase passed on to Teledyne, do you know?

A The answer is no, and there is no good reason for it. They had a purchase order at a fixed price.

Q Mr. Leonard further states here:

"All outstanding P.O's.--" I guess this means purchase orders?

A Right.

Q "--except Teledyne, have been paid up, and the American Marc account at Bank of America closed. The transfer of $25,916.99 on February 29, and $1,000.00 on March 29, leaving no funds except those in the Eon account for New York signature. As you know this is net to Eon as my consulting fee and expenses have been paid in advance."

Does this document refresh your recollection, Mr. Anton, that the former special account maintained by American Marc at Bank of America was in fact closed?

A Mr. Lang, without making such a great mystery of this whole thing, I explained it to you a hundred times today. The special account had signatures by Mr. Leonard and Mr. Walck. In the same bank, the same place, the same everything, we just changed the signature on that account.

You can call it new account, old account, special account, whatever you like. It's still the same

account with different signatories, because of the fact that Mr. Leonard ceased to be an officer of Eon.

To me it's so simple that it does not require great inventions or mysteries.

Q It may be simple to you, but it might be confusing to an outsider.

Just a few moments ago you testified that the special account was inactive at the Bank of America.

A Yes, because the bank said that it was not possible to change the signatures, but we should establish another account in the same place. So instead of changing the signature they established a new account with a new resolution because of the new signature.

Q And the old account was closed?

A Naturally.

Q I thought there might be a difference between an account being closed and an account being inactive. Your terminology confused me.

A Yes, it was closed.

Q I am sorry. Could you state it another way?

A At the time right now, it is apparent from these papers that we got very recently, that at the time of the subcontract there was not sufficient dollars in the contract to pay Teledyne, if they got every penny.

Q Let me be very clear about this, Mr. Anton. It's your testimony that you did not inquire of Mr. Leonard as to how much was remaining to be paid under the government contract at the time Eon entered into the sub-

contract with Teledyne, correct?

A That is correct.

Q Did you ask anyone else to make that determination at that time?

MR. WEINBERGER: He answered your question, but that is not what your question originally was, Mr. Lang, so that there are now two answers.

MR. LANG: The record will speak for itself.

MR. WEINBERGER: I want to make sure that it's clear, your question.

MR. LANG: The record will speak to what my question was better than your recollection.

MR. WEINBERGER: Please repeat the question for Mr. Anton, because I think he may not understand the question as you rephrased it.

(Question read back by reporter.)

BY MR. LANG:

Q Did you ask anyone else to make that determination?

A No.

Q Do you know whether anyone at Eon and when I say Eon, I am including American Marc Division, do you know whether anyone at Eon made such determination at the time it entered into the subcontract with Teledyne?

A To my knowledge, no.

Q Do you know whether anyone at Eon made that determination prior to the time it entered into the subcontract with Teledyne?

A No.

Q Could that determination have been made by Eon from the records maintained by Eon?

MR. WEINBERGER: If you know.

MR. LANG: Every question assumes that.

A The Board--by that I mean not officially sitting down and formulating a written question--was concerned with the idea of cash flow; so we asked our controller, asked Mr. Leonard to have his controller to give us a projection which he sent in.

To the best of my recollection that projection showed if Teledyne maintained a schedule of shipping the stuff on time and that everything would go all right, there would be a cash flow deficiency of $230,000.00 at the end of the contract.

Q When was that done, do you recall, roughly?

A That was done roughly in June of '71.

Q That was the first time the Board requested this type of information?

A The subcontract was entered in May, so yes, it may

be when they did request, when I requested the information of Leonard.

Q Was it the intention of the Board of Directors of Eon to pay Teledyne under the subcontract the funds received from the government?

A That's the only funds we could have paid them from.

Q That was done with the money that was received from the government in terms of progress payments such as the check in April we are talking about, the one that we mentioned which was not paid to Teledyne?

A They were moved to the Eon account now, to the corporate account in New York, and they were used to pay out obligations of the corporation, to stop the corporation from going busted you could say. I don't know which word to use.

Q What obligations were they?

A I would have to check the records to find out how that money was spent. It was spent to pay pressing obligations of the corporation.

Right now I couldn't tell you what they were. It was not one item. They were continuous items.

Q Do you receive a salary from Eon Corporation?

A Yes.

Q What was that money used for that you received from the government?

A I can tell you after I look at the check stubs. You can ask Mr. Mitchell. He has the complete statement, penny by penny. You look at the statement first that you have in your file. Don't ask me.

Q When was this done?

A Well, I would have to check the records. I don't know--June, July, August--somewhere around then; in June or July. I don't know. You see, when you ask me for dates it's kind of silly, because it's not my way of working.

When you ask me for a date I take the log book and tell you.

Q Was this done after the lawsuit was filed or before?

A I don't know. You have to establish by dates. You know the date when the lawsuit was filed. You know the date when the checkbook was started and you say that that is when the book was started.

Q What bank was the account started in?

A I don't know the name. After I look at the record.

Q Was this done by transfer directly from California, the Bank of America? Did they transfer the funds right into this Long Island account or accounts?

A The exact details, I don't know.

#6 Q Who arranged the details?

A I directed it. I don't know who arranged it.

Q Was this done with the approval and consent of the Board of Directors?

A With the knowledge of the directors.

Q It was split up into two accounts, you say, in Long Island?

A Yes.

Q I am talking about your reasons for stopping payment to Teledyne.

A I explained to you that if I would have paid you that amount, we wouldn't be here now, because the company would have stopped existing.

Q That is the reason?

A That is the reason.

Q You used it for other conditions?

A Corporate purposes, to keep the corporation alive.

MR. LANG: Please mark it as Plaintiff's ~~Exhibit Twelve for identification~~ Tr. Ex 26.

(Document referred to above received and marked Plaintiff's ~~Exhibit Twelve for identification.)~~ Tr. Ex. 26

Q There is a S.E.C. stamp on this, October 13, 1971--I believe it is 13.

MR. WEINBERGER: For fiscal year ending February 1971.

Q Mr. Anton, on page five of the 10K it notes that as of February 28, 1971, Julius Srybnik owned 665,000 shares of Eon, constituting 11.31 per cent of the outstanding voting stock of the corporation; Louis Srybnik owned 606,056 shares, constituting 10.30 per cent of Eon's outstanding voting stock; Simon Srybnik owned 650,000 shares, constituting 11.04 per cent of the outstanding voting stock of the corporation and Kern Manufacturing Corp. owned 736,857 shares of Eon Corporation, constituting 12.53 per cent of the outstanding voting stock of the corporation.

To the best of your knowledge, information and

belief, did these share holdings remain, and the percentage of ownership remain fairly constant from February 28, 1971 to date?

A They slightly decreased because stock has been issued as per the 10K of the next year to a few people, so essentially they are the same, but slightly lower.

Q How many shares of Eon did you own as of February 28, 1971?

A It would be on the proxy statement. It's approximately 59,000, 60,000 shares.

Q Has that remained fairly constant to date?

A Excepting a decrease in the same proportion as those.

Q How many shares does Odif Podell own?

A 10,000.

Q Did he own 10,000 as of February 28, 1971?

A To the best of my knowledge, yes.

Q And Saul Waller, how many shares of stock does he own?

A 100,000 shares.

Q Was that about the same on February 28, 1971?

Yes, approximately.

Q Is it correct that Mr. Simon Srybnik is the principal stockholder in Kern Manufacturing Corp.?

(Document referred to above received and marked Plaintiff's ~~Exhibit 13 for identification.~~ Tr. Ex. 27)

Q Would you tell us, Mr. Anton, what does this document purport to show, not as to detail but what is the purpose of the document?

A At that time I think that Mr. Leonard was requested to present to the Board some estimates of what the sub-contract would do to the operations of American Marc, and the answer is contained in there.

Q Was this presented to the Board?

A I don't know that, but I assume that all members were acquainted with that. I don't remember an exact ceremony in which it was presented to the Board.

Q You categorize my questions.

Was it discussed with any members of the Board, whether at a formal Board meeting or not?

A I am sure of that, yes.

Q Is this Plaintiff's ~~Exhibit 13~~ Tr. Ex. 27 one of the documents which you say would show that the American Marc Division would be receiving about $200,000.00 less from the government under the contract than the total value of the subcontract?

A It may contain that information. I don't know. You have to analyze it.

Q Mr. Anton, you testified yesterday that you learned in June of 1971 that Eon would be about $200,000 short on payments from the Army to cover the total cost of the subcontract.

When you learned of this, was this communicated by you to the board members?

A I don't believe I said that I learned that the payment from the Army will be short. I said that I had a projection from the controller of American Marc which shows a cash flow shortage of $236,000 at the end of the contract.

How he arrived at that, I don't know. That information, as I said yesterday, was conveyed to the board of directors formally or informally.

Exhibit 19 for identification, as of this date.)

THE WITNESS: Will you read my last answer.

(Answer read back.)

THE WITNESS: I don't know whether this is a draft.

Q You don't know whether you saw this draft at the attorney's office?

A No. But something like it, I must have seen. I am sure if you look in the contract you will see a signed copy by me of some kind of an agreement.

Q So that we are very clear, this draft is a draft of an agreement by which American Marc sold certain inventory and parts to Teledyne, which inventory and parts could be used by Teledyne in fulfilling its subcontract with Eon?

A That's correct.

Q Mr. Anton, we have received from Eon, stapled together, 49 pages with a cover page entitled, "Agreement, Teledyne Industries, Inc.," and I will show you the document just as we received it from Eon, and ask you if you can identify this document which appears to contain a number of letters, agreements, some purchase orders, and the like.

(Handing document to witness.)

A With the exception that I haven't counted the pages, this is a copy of the agreement that we keep in our safe in the office and when Mr. Mitchell was there we just didn't know it was filed on a different shelf.

This was located immediately after he left because he asked for it and we made a copy and mailed it to him.

MR. LANG: I am going to ask, with your permission, Mr. Weinberger, that the reporter mark this document as Plaintiff's Exhibit 20 for identification on the cover page, and thereafter mark each page consecutively by numbers --

MR. WEINBERGER: By letters.

MR. LANG: -- by letters. Fine. After the cover page.

MR. WEINBERGER: No objection. Why don't we count the pages anyway. I count 49 separate sheets underneath the cover.

MR. LANG: Mr. Mitchell has suggested it might be better, instead of marking each page, that we mark each document separately, such as this one Exhibit 20. 20A will be, if it is one page--it will be one page.

MR. WEINBERGER: If you want to designate and have it as the small letter as designating a collective

Q Mr. Anton, so the record will be very clear with respect to Plaintiff's Exhibit 20 and there be no confusion, am I correct, sir, that the documents which have now been marked as a part of Plaintiff's Exhibit 20 for identification were furnished to us from the files of

Eon?

A Yes.

Q Am I correct that these documents were photostated by someone at Eon?

A Yes.

Q Am I also correct that in certain cases it is possible that the document in the file of Eon was not original but may have also been a copy?

A That's correct.

Q Am I further correct that the documents in Plaintiff's Exhibit 20 were kept together and stapled together, as they now appear, in the safe of Eon Corporation?

A Yes.

Q Am I correct that while all these documents are stapled together for us here today, they were not stapled together as one package while they were maintained at the Eon Corporation?

A They are bound some way in a file.

Q They are bound in a file?

A I don't know whether they are stapled or have a two-hole clasp or something like that.

MR. MITCHELL: I have just one clarification: These documents which we have marked as Plaintiff's ~~Exhibit 20~~ were not found by you, Mr. Anton, in the documents sent from American Mare in California. They were at the Eon -- in the Eon Corporation office file.

THE WITNESS: Yes. This is our office copy file.

Q With respect, for example, to Plaintiff's Tr. Ex. 8 ~~Exhibit 20~~, which is a first page of a letter on American Mare stationery, dated May 25, 1971, to Mrs. Fern Guy, the Bank of America, when would this copy have been received in the files of Eon in New York?

MR. LANG: Off the record.
(Discussion off the record)

A I don't know. I assume a few days after the signing;

Q Next I show you a letter on the letterhead -- a

copy of a letter on the letterhead of Bank of America, dated February 22, 1972, from Mrs. Fern Guy, Manager, to your attention, and attached to this letter is a form of signature card to be completed by Eon, and ask if you can identify the letter and the attachment?

(Handing documents to witness.)

A Yes. This letter was received by me, and it was written by Mrs. Fern Guy.

Q This letter, am I correct, was sent by Bank of America in connection with the need to complete certain signature cards to open the account properly in California?

A Correct. This, as Mr. Mitchell has said before there was a little mix up in the Bank of America accounts at Palos Verdes.

The intention, my intention, was to change the signature in the special account -- or, I should have said, the signatories in the special account, and in doing so the Bank got all mixed up and so it was finally decided to cancel that special account and open another account, number 38, against the 35 which is a continuation of it, but under different signatures.

Q So 35 was a continuation of the old American Fore account?

A 38.

Q 38 was?

A 38.(Indicating.)

Q 35 was a continuation of the existing special account maintained by American Mare; am I correct?

A I understand that. I would have to check that to make sure it is complete, but it appears that the 35 account, which are copies of stubs you have over there, is a special account established for that purpose.

Q After this mix up which you described, an entirely new account was opened and that was designated account number 38?

A Right.

Q These signature cards which are attached to that letter sent by Miss Guy, were in preparation for opening of account number 38?

A Right.

MR. LANG: Can we mark this letter as ~~Exhibit~~ Pl. Tr. Ex. 32 ~~#~~, please?

(Letter from Bank of America to the attention of Nicholas Anton, dated February 22, 1972, marked Plaintiff's ~~Exhibit 25 for identification, as of this date.)~~ Tr. Ex. 32

Q Could you identify for us, Mr. Anton, the four signatures on Plaintiff's ~~Exhibit 33 for identification~~ Tr. Ex. 33?

A You have the copy of the back of the card in your file which is a type-written copy of the front.

Q Is this a copy of the back of the card?

(Handing document to witness.)

A Yes, and it states that the four signatures are those of Mr. Simon Srybnik ---.

Q I said, each of the four.

A These are the signatures of the president, the secretary, the chairman.

Q Could you name them, please?

A The president, Nicholas Anton; the secretary, Mr. Saul Waller; the chairman of the board, Mr. Odif Podell;

and a director, Mr. Simon Srybnik.

Q Am I correct, sir, that the withdrawal from the account required the signature of at least two of these four individuals?

A That's correct.

Q Then does this refresh your recollection, that as of the date of the new account number 38, that Mr. Leonard was no longer authorized to sign any checks?

A That's correct.

ramification of your question. If you make it clear, I will be able to answer you.

Q I don't want you to be concerned with the ramifications of them. I just want you to be concerned with the question.

MR. WEINBERGER: He obviously indicates he doesn't know.

Q Did you have an understanding as to what obligations, if any, Mr. [illegible] had to Teledyne with respect to the funds that Mr. received from the government for generator sets manufactured by Teledyne?

A He was supposed to pay the invoices of Teledyne when they were given to us to pay.

Q Was the fund supposed to be segregated in any way?

A That's just an understanding that you want to put --

Q I am asking you what your understanding was.

A My understanding is Mr. Leonard had an arrangement made and he kept to those arrangements up to the time when I stopped him, which is the last two payments.

Q Do you know what those arrangements were?

A Those arrangements were that the funds were received from the army, deposited and used to pay Teledyne like everybody else.

Q What was the name of the company that engaged in the government contracting work?

A Portland Industries Corp., South Portland, Maine.

Q When did you first meet Mr. Simon Srybnik, a defendant in this action?

A About 40 years ago.

Q Have you provided any professional accounting services for Mr. Srybnik or for any businesses in which he has had an interest in the past?

A Yes, I have.

Q Is that professional work for Mr. Srybnik or for his various enterprises continuing up to the present?

A Yes, it is.

Q Has the duration of these services for Mr. Srybnik or his enterprises covered the whole 40-year period that you have known him, substantially?

A No, sir.

Q Approximately when did it start?

A Approximately 35 years ago.

Q Where did you first meet Mr. Nicholas Anton, another defendant in the present lawsuit?

A Latter part of 1966.

Q And Mr. Odif Podell, when did you first meet him?

A About the early part of 1967.

Q Were you introduced to Mr. Anton or Mr. Podell through Mr. Srybnik or independently of Mr. Srybnik?

A . Podell through the Srybniks. I can't say directly through Mr. Simon Srybnik. It may have been through his brothers.

Q By his brothers you are referring to Mr. Julius Srybnik and Mr. Louis Srybnik?

A Yes.

Mr. Anton I met at the time we came into Eon.

MR. FELDSHUH: Met him how?

THE WITNESS: At the time I came to Eon, yes.

Q Had you known Mr. Podell prior to the time you came into Eon?

A No, I had not.

Q When did you first meet M. James Leonard?

A About 10, 12 years ago.

Q Were you introduced to him, or did you first meet him through one of the Srybniks?

A Through one of their enterprises.

Q Which enterprise was that?

A That was in connection with Portland Industries. That was the first time.

Q To your knowledge, was Mr. Leonard employed

of his corporations, the Eon Corporation?

A No, sir, I was sent out by Eon Corporation.

Q To whom did you report the results of your trip, if anyone?

A Back to the board, Mr. Anton and the board.

Q Did Mr. Srybnik have any participation in the acquisition of American Marc, to your knowledge?

A Yes, he initially, he was involved in the initial negotiations in connection with American Marc.

Q Am I correct in understanding that you visited California on your trip in 1967 for the purpose of effectuating whatever negotiations Mr. Srybnik had earlier arrived at?

A Yes.

MR. WEINBERGER: Would you repeat the question, please?

(Question read back by reporter.)

MR. FELDSHUH: You say the other one who took on the negotiating was Mr. Srybnik?

THE WITNESS: Jim Leonard was involved in it too.

Q Was Mr. Leonard at the time an officer or director of Eon Corporation?

A No, sir.

Q So on behalf of Eon Corporation, only Mr.

Q How many shares of Eon stock do you presently own?

A 99,000.

Q Were these 99,000 shares all acquired at the same time?

A Yes, they were.

Q What was the date of this acquisition?

A Beginning of 1967.

Q What was the consideration?

A A penny a share.

MR. FELDSHUH: That is $990.

THE WITNESS: Actually, I had 100,000 shares, and I contributed a thousand shares to my Temple.

MR. FELDSHUH: So you paid $1,000, is that right, on acquisition?

THE WITNESS: Total acquisition was $1,000 for 100,000 shares.

Q Did you purchase or sell any shares between this date in 1967 and the present?

A No, sir.

Q Mr. Waller, do you currently hold any debts, any evidence of indebtedness of Eon Corporation such as

A '71. There was an audit going on, and we didn't have the completed audit yet. We had the basics, but because of our substantial overhead we had some substantial losses in the plant for that year.

Q Was Miller & Co. doing the audit?

A Yes, and usually a certified audit takes more than two months.

Q You indicated there were other internal financial statements.

A We had an indication that we having losses because of the big overhead.

Q What documents, if any, were reviewed or discussed, which showed the sizable overhead of American Marc Division?

A I don't remember which specific. I can't remember specifically what documents we had. There may have been some monthly reports that had been forwarded on to Mr. Anton which is a basis of information to us.

Q Was Mr. Robert Walck the controller of the American Marc Division?

A Yes, he was.

Q Did he prepare or cause to be prepared from time to time various internal statements of a financial nature concerning the American Marc Division?

A Occasionally, yes.

Q Were these quarterly statements?

A Yes; there were quarterly statements because we needed that information for the S.E.C., so that information would come out, but it would come forth.

MR. FELDSHUH: You needed it for Eon?

THE WITNESS: Yes, we needed it for Eon and for S.E.C.

MR. FELDSHUH: I assume the question was directed about American Marc.

MR. MITCHELL: I am referring to the American Marc financials, whether they were needed by American Marc or Eon.

THE WITNESS: They were needed by Eon.

MR. FELDSHUH: I want to make clear that Walck was not preparing the Eon quarterlies.

MR. MITCHELL: I take it you will adopt your attorney's statement?

THE WITNESS: Okay.

BY MR. MITCHELL:

Q To your recollection, when had these internal financial statements of American Marc started being prepared by Mr. Walck?

A At the time he was employed, from the first day he

was employed.

Q Do you recall approximately what date?

A In the beginning he would have a bigger staff and he got them out every month; and later it would be occasionally. All we knew, he had to have them every three months. They would come in every three months.

Q But sometimes they would be more frequent?

A Going into '71 he didn't have that much help, so I would assume maybe every three months this information would be forthcoming.

Q Was there a format that these financial statements, these interim financial statements would take? Would there be balancesheet information, a profit and loss statement, cash flow; what types of statements were routinely included in these quarterly or more frequent interval statements?

A To my recollection, they included a balance sheet and a profit and loss statement. There may have been some additional information. I don't recall.

Q Do you ever recall seeing a cash flow statement prepared with regard to a budget or any other similar financial statements?

A I would see some of those occasionally.

Q I am referring to American Marc cash flow

statements, not an FOR cash flow statement.

A That is possible.

delivered under the purchase order?

MR. FELDSHUH: To your knowledge.

A I would assume in the normal course of business.

Q What funds in the normal course of business would be used?

A Whatever funds are there, whatever funds come in are in the company in California.

Q When you testified earlier that it was your understanding that funds in the normal course of the business were to be used to pay Teledyne Continental Motors, are you talking about funds generated by American Ma[illegible] Division in the normal operation of its business?

A I assume it would. It would come from funds that

Q Are you aware at the present time that there was an American Marc Division bank account at the Bank of America in Palos Verdes, California?

A I learned of that the early part of '72.

Pl. Tr. Ex 22

Q I refer to ~~Plaintiff's Exhibit 5 for iden-~~
~~tification,~~ which I have just shown you, the second sentence at the top of the page which reads as follows:

"As you know, shortly after the first of the year when the accounting department at American Marc was removed from the payroll, the board of directors decided that all financial control be handled out of New York."

To your knowledge, was all financial control at the date indicated shifted from American Marc to Lon on the East Coast?

A I believe it was.

something that was more or less in the air at that time, more or less to phase out the operation there.

The assumption at that point was that we were going to close down possibly immediately after the machinery and equipment had been sold in the plant; then the office furniture and everything else was going to be sold, so this was more or less in line with that.

Q The Bankers Trust account referred to in the sentence I just read, had that been opened on the date of the meeting that we are referring to?

A I believe there may have been an account at Bankers Trust or it may have been planned; but I don't recall whether there was an account at that time or it was going to be done subsequent to this date; but the plans were more or less to transfer over and continue the operation in New York, and that was the whole gist of it.

Q Were in fact the future receipts -- by future receipts I mean after the date of the meeting from which those minutes were taken -- were receipts of American Marc under the government contract thereafter placed in the Bankers Trust account in New York?

A I have no way of knowing. I have no knowledge to that. I have no present or past knowledge or memory as to that.

Q But it was the intention on the date of that meeting that that should occur?

A That was the general intent. The general intent was to transfer -- the operation was going to be transferred to the East Coast. All arrangements were being made for the billing through D.C.S.A.R. on the East Coast, because you had a D.C.S.A.R. on the East Coast and on the West Coast. It's a question of authority as to where the jurisdiction would be for the paper work.

of Glen Head in Glen Head, Long Island; and another with the Nassau Trust Company in Glen Cove, New York?

Are you aware of the existence of these Eon bank accounts?

A Yes, sir.

Q With respect to the first, the National Bank of Glen Head, do you recall when that bank account was opened?

A I don't know the exact date. I would assume, I don't know, I think I have seen something in the papers, but I am not sure about it.

Q Do you recall the year in which this took place?

A Oh, 1972.

Q With respect to the Nassau Trust Company Eon bank account, do you recall when that was opened?

A About the same time, I think.

Q What was the purpose of opening these two bank accounts?

A Well, the company had been in default with First National City Bank, and there was concern about funds being left in the Banker's Trust, because apparently the banks had ears between themselves, and they were a little concerned that the First National City Bank would

walk right in and attach the funds; so it was more or less the thought, of Mr. Anton, that the account should be set up in banks in Long Island.

MR. FELDSHUH: Off the record.

(Discussion off the record)

Q Were all funds subsequently received by Eon Corporation put into these two bank accounts as opposed to Bankers Trust?

A No,sir, not to my knowledge.

Q Were any further funds put in Bankers Trust?

A I don't know.

Q Were you aware of the nature of the funds that were deposited in the two banks just referred to?

MR. FELDSHUH: You mean the source of the funds?

MR. MITCHELL: The source of the funds.

A They came from the Bankers Trust account.

Q Were there any funds deposited in either of these two accounts which did not come as a transfer from Bankers Trust account?

A I don't know.

Q Were you an authorized signator to either one of these two accounts?

A I was.

Q Did Mr. Leonard during your tenure on the Board of Directors of Eon, ever participate in directors' meetings?

A Yes, he did.

Q On approximately how many occasions since Mr. Leonard became a director of Eon, did he participate in Eon directors' meetings?

A Not having -- I don't know if the minutes are here - it would be reflected in the minutes. I can only venture a guess, and I would say approximately four meetings. I know he attended a stockholders' meeting and we had board of directors' meeting on that day so he attended two meetings on that day.

Q This would be four meetings out of approximately how many during his tenure as a director?

A I can't answer that.

Q Did the board of directors of Eon ever prescribe any limitations to the scope of Mr. Leonard's authority to act on behalf of Eon?

Trybnik 4

A I am Chairman of the Board of Life Sciences, I started the company about 10 years ago.

Q Is that a nonprofit organization?

A It's a public company, profit oriented.

Q What are your other business affiliations?

A I am president of Park East Hospital on 83 Street and Park Avenue; and president of Park West Hospital on 76 Street and Amsterdam Avenue.

Q Are these private hospitals?

A These are private hospitals.

I am a partner in S & S Machinery Company, 140 53 Street, Brooklyn.

Q Is that a partnership?

A That's a partnership.

I am Chairman of the Board of Kerns Manufacturing, Long Island City.

Q Is that it?

A No, I have a few more, but I think that's enough. I have some other holdings.

Q How long have you been a director of Eon Corporation?

A About five years.

Q That would be roughly 1968?

A '67 or '68.

Q Mr. Srybnik on Page 3 of Srybnik Exhibit 1, the 10K form, purports to show stock ownership of Julius Srybnik, Louis Srybnik, Simon Srybnik and Kerns Manufactur-

ing Corporation for the fiscal year ended February 22, 1972; and I ask you to look at this and ask you if to the best of your knowledge, information and belief, this accurately lists the stock ownership and the percentage of the outstanding voting securities of the three individuals and Kerns (handing)?

A That is approximately right.

Q The next sentence beginning on Page 3 states as follows:

"The above named individuals and corporation hold or control the votes of 2,657,913 shares of the registrant's common stock representing in the aggregate 44.99 percent of the voting power of the issued and outstanding stock of registrant as of August 31, 1972."

MR. FELDSHUH: I take it this was dated February 28, 1973?

MR. LANG: No, it's for the fiscal year ended August 31, 1972.

Q I am reading from the 10K:

"Simon Srybnik, a director of registrant, individually owns a majority of the outstanding shares of Kerns Manufacturing Corporation and is Chairman of the Board of that corporation. He and his brothers, Julius C. Srybnik and Louis Srybnik together own a majority of

the outstanding shares of such corporation."

To the best of your knowledge, information and belief, is that a true and accurate statement?

A Yes.

Q When did you first acquire shares in Kon Corporation?

A Approximately 1967 when it came out of bankruptcy.

Q How many shares did you acquire at that time?

A I believe it was about 4,000,000.

Q Did you acquire those personally?

A No, those were acquired just the way it reads; I believe it was acquired that way.

Q In other words, at the same time you acquired your shares in Kerns, your brothers, Julius and Louis, also acquired their shares and Kerns acquired its shares.

A That is correct.

Q And between the initial acquisition in you say you believe 1967 and the present date, did you or your brothers or Kerns sell or transfer any of the shares?

A My brothers and I sold shares.

Eon to Teledyne, that Eon Corporation was concerned at the cash drain that the American Marc Division was creating on the Eon Corporation?

A Yes.

Q And was this concern discussed from time to time by the directors of Eon Corporation?

A Yes.

Q Do you recall, sir, during what period of time was this a matter of discussion among the Eon directors?

A I can't give you a period of time. It was always discussed, had to do with American Marc.

Q Let me try to, as a time reference, it has been established, and correct me if I am wrong, Mr. Feldshuh, that the date of the purchase order from Eon to Teledyne was May 12, 1971.

My question would be, taking that as the date of the purchase order, how long prior to that had this American Marc situation and the drain on Eon been a matter of discussion among the directors?

MR. FELDSHUH: Just for the record, I have a note here that the purchase order was dated May 11, 1971.

MR. LANG: Thank you, May 11.

A About a month before, there was a directors' meeting

and it was agreed upon or about to be agreed upon that this contract was going to be moved through the Brooklyn operation.

We had a high overhead in American Marc, around 250 percent or more, and the Brooklyn operation was running about 95 percent over; so it was a good and profitable contract to move to Brooklyn.

At that meeting, Mr. Leonard presented a -- at that meeting we talked about a bid on additional work which American Marc lost, and he brought with him half a dozen bidders that were much lower than the price we had bid on that contract.

I think the lowest was somewhere around $320 or $350 or $360.

Q This was also a generator set contract?

A These same generator sets, and we were getting around $400 a piece for them; and at that meeting we authorized Leonard to discuss with these bidders, either to subcontract this contract if he was successful; otherwise we would take it back to Brooklyn and finish the contract in Brooklyn; whatever Anton decided to do, whichever way he saw fit.

Q To the best of your recollection, was Teledyne one of the companies listed as a bidder on that?

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A Yes.

Q At that point in time, Mr. Grybnik, were you aware of the amount of money that was still to be paid by the government to Eon under the contract?

A No.

Q Had the directors at or about that time or prior to that time received any cash flow projections from the controller or accountants as to the amount of money that remained to be paid to Eon from the government under the contract?

A Not to my knowledge. This government con[illegible]as a good contract. The problem we were having there was total cost of the operation. The contract was a profitable contract.

Q Were you aware of the fact that for some considerable period of time that Eon had been progress billing the government under the contract?

A Yes.

Q As a result of that board meeting, did the board direct Mr. Leonard to take some action?

A The board directed Mr. Anton to take action, and in turn Mr. Anton directed Leonard to contact these people.

Q Was Mr. Leonard present at that board meeting?

A Yes.

Q And Mr. Anton was present?

A Yes.

Q And you were present?

A Yes.

Q Did he tell you who the subcontractor was?
A There were a few we were considering.
Q Did he tell you when he was going to the West Coast?
A He was leaving the following day.
Q Was all that he said at that time?
A That's all that he said. He said he found a few subcontractors that can do the job and are presently negotiating with him, and he was going to the West Coast to see if he could close a deal with somebody.
Q Then what was the next occasion in which you had any discussions referable to this arrangement?
A When he came back, three or four days later, he told me that he had made a deal with Teledyne.
Q Did he tell you what the deal with Teledyne was?
A Yes, he said we are going to make approximately $50 per unit on the contract.
Q Did he tell you that he participated in the negotiation of this contract?
A I didn't get involved in the discussion with him what he did. He went out there for the purpose, so I assumed that was what he did.
Q In his telephone conversation before he went

to the West Coast, did he tell you why he was going to the West Coast when Mr. Leonard was already out there?

A He felt it was an important enough business transaction that he can lend his expertise to closing a deal.

Q Did he indicate to you in any way that Teledyne requested that he come out to participate in the arrangement?

A No.

Q Did you speak t Mr. Anton and/or Mr. Leonard during the period while they were in California negotiating with Teledyne?

A No.

Q Did you speak to anyone else from Eon during this period who might have related to you conversations they had with Mr. Anton or Mr. Leonard while they were on the West Coast?

A The only one I talked to is Anton.

Q When Mr. Anton returned from the West Coast and called you and told you that Eon would be making approximately $50 a unit and that Teledyne was the subcontractor, did he say anything else?

MR. FELDSHUH: One moment, please, Mr. Lang. Did you use the word, returned?

Will you please read back the question?

(Question read back by reporter.)

A No.

Q He did not say anything else?

A No.

Q Did he discuss with you the fact that in addition to a purchase order from Eon to Teledyne, that there was also an agreement between Eon and Teledyne with respect to certain inventory?

A Didn't discuss it with me.

Q When was the next occasion that you had in discussions referable to the activities between Eon and Teledyne?

A That's what I started to say before. It was July or August. I believe it was in July, but I am not certain. Mr. Anton was bringing me up-to-date on the closing down of American Marc, and at timing, and what our financial position was at that time.

Q Was this in a face to face meeting, or was this on the telephone?

A I think it was a telephone conversation. I don't believe I met him at that time.

Q What did he say in this telephone conversation?

A He told me that he had a report from American Marc,

and that everything seemed satisfactory; things are going along according to schedule; but we are going to be about $150,000 to $200,000 cash flow short at the end of the contract.

Q What did he mean by cash flow? What did you understand this to mean, by cash flow short?

A That we would run short of $150,000 to $200,000 we would need to finish up, so that was by the end of the contract to finish the contract.

Q By finish the contract did you understand him to mean to pay Teledyne under the subcontract?

A Not really, because with Teledyne we were making about a quarter of a million dollars on the original costs involved in closing down the operation.

American Marc was a manufacturer of diesel, light weight diesel generator sets for the government and there had been contracts in there.

At that time American Marc had no government contracts and the cost of operation became very expensive. They were supposed to get contracts over there, but the time lag was too long, and the board decided to close the plant down.

Q Did you have any discussion at this time with Mr. Anton with respect to the method or means by

Q Did there come a time when you had a discussion with somebody about payment to Teledyne and how it would be paid under the subcontract?

A I am trying to think when he informed me, how he -- to the best of my recollection, he informed me that

Teledyne was getting paid the same way that American Marc was being paid.

Q By "he" you mean Mr. Anton?

A Anton.

Q What did you understand that to mean?

A The government pays us and they pay -- the government paid American Marc, and American Marc would pay Teledyne.

Q Did the Board of Directors of Eon Corporation ever formally ratify the agreements between Eon and Teledyne?

A Not to my remembrance, no.

Q To your recollection were these agreements ever discussed at a board meeting?

MR. FELDSHUH: You mean after execution?

MR. LANG: After execution.

A Yes.

Q When?

A I don't remember when.

MR. LANG: Please read back the question.

(Question read back by reporter.)

A (Continuing) We started to talk about them when the plant was being almost completely closed down, and the monies were starting to be transferred to other accounts, and then to New York, around that time.

having received this document (handing)?

A As you notice, this letter was sent to Eon to my attention. Mr. Anton called me, told me what was in this letter, and for all intents and purposes he was taking care of it; and then he mailed me a copy of it.

Q He read the letter to you over the phone?

A No, he just told me what it was about. He is taking care of it. There is nothing to worry about.

Q Taking care of what?

A Whatever is to be taken care of, talking about Eon renting the property, selling the property, whether we should lease it or sell it, talking about checks here for payment, and he was familiar with it, and he was handling it. I was not. This was an everyday procedure for him.

Q Do you know that Mr. Leonard in his letter makes reference to the fact that Eon Corporation received two progress payments in April; one for $212,000 and one for $218,000?

A Yes.

Q And that pursuant to directions of Mr. Anton, only one of those checks to cover Teledyne invoices were mailed to Teledyne, and the other was withheld from Teledyne.

A Yes.

Q Did you discuss this with Mr. Anton?

A He mentioned it and said he was taking care of it.

Q By that did you understand to mean that he was going to pay Teledyne?

A No, he was the operating head of it and knew what it was all about and this was a letter bringing me up-to-date in general what was happening.

Q Going to Mr. Leonard a second, were you responsible for bringing Mr. Leonard into Eon and heading up the American Marc Division?

A Yes.

Q Had Mr. Leonard had prior dealings with you?

A Yes, he worked for S & S Machinery Corporation in California.

Q Does he still work for S & S Machinery Corporation?

A No.

Q When did that terminate?

A End of the year.

Q End of 1972?

A '72.

Q In fact, while he was working for Eon in California, was he not also working for S & S Machinery?

A He was.

9 Q Mr. Srybnik, did the Board of Directors of
10 Eon place any limitations on Mr. Leonard's authority with
11 respect to his operations of the American Marc Division?
12 A To the best of my knowledge and memory, he was
13 totally in charge of that division.
14 Q Were there certain matters and arrangements
15 which he would have handled for American Marc subject,
16 however, to the approval of the Board of Directors of Eon?
17 A I don't know of any such matters. He reported
18 continuously to Anton; and Anton was familiar with what
19 he was doing.
20 But to the best of my knowledge, he had free reign
21 in the operation.
22 MR. FELDSHUH: I take it the time period
23 you are referring to is the time period up to
24 December 31, 1971, keeping in mind that Mr. Leonard
25 did resign, according to an exhibit previously

identified on a prior occasion, on or about January 21, 1972.

MR. LANG: I am talking about the period of time that he was a director of Eon and a vice-president of Eon, and not the period of time that he was a consultant of Eon.

MR. FELDSHUH: Right.

A He had a working arrangement with Anton, and they were in constant touch with each other; so Anton -- he really worked for Anton.

Q I asked you, for example in terms of the subcontract or the arrangements between Eon and Teledyne, did Mr. Leonard have the authority to enter into these arrangements on Eon's behalf without obtaining the approval and authority of the Board of Directors of Eon?

A Well, Anton went to the West Coast to conclude the deal with Leonard.

Q Would that signify to you that Mr. Leonard did not have the authority to finalize any such arrangements without the approval of Mr. Anton or someone else from New York?

A I believe any major decisions he would discuss with Anton.

Q What reason was given by Mr. Leonard for

Q Did you have any conversations with Mr. Leonard as opposed to written communications, but oral conversations with Mr. Leonard with respect to the subject matter of the subcontract between Teledyne and Eon?

MR. FELDSHUH: Fix the time.

MR. LANG: At any time prior to the institution of this action.

MR. FELDSHUH: And from May 1971?

MR. LANG: Right, from May 11, 1971.

A Only the time he was in New York at the meetings.

Q What meetings are you referring to?

A Whatever board meetings he came to.

corporation; is that correct?

A Yes. For one year I appeared as a director of the corporation on the annual report.

Q You say you appeared on the annual report. Were you in fact also a director and functioned as a director of the corporation?

A Oh, yes.

Q Did you attend directors' meetings?

A Yes.

Q During this one-year period approximately how many directors' meetings did you attend?

A Five or six.

Q Were those meetings held in New York or in Los Angeles?

A In New York.

Q Were the gentlemen you just named, namely Mr. Anton, Mr. Waller, Mr. Podell, also directors of the corporation?

A Yes.

Q Was Mr. Simon Srybnik also a director of the corporation during this period?

A Yes.

Q How long did he remain as comptroller for the American Marc Division?

A Through December of 1971.

Q Through December of 1971?

A (The witness indicated by nodding head up and down.)

Q During the period that you were employed, either as an officer and director of Lon or as a consultant, were you also employed by S&S Machinery?

A Yes, sir.

Q In what capacity?

A As a vice president of the S&S Machinery of California.

Q Is that a separate corporate entity?

A Yes.

Q Is S&S Machinery of California, or rather was S&S Machinery of California affiliated with any other corporation?

A No.

Q It had no stock affiliation or any other affiliation?

A Not to my knowledge.

Q Was Mr. Simon Srybnik a principal of S&S Machinery of California?

A To the best of my knowledge he was a stockholder, a principal stockholder.

Q Was he on the Board of Directors of S&S Machinery?

A I don't know.

Q Do you know who was on the Board of Directors?

A No, I don't.

Q What was your position at S&S Machinery?

A Vice president.

Q To whom did you report?

A To Mr. Jay Srybnik.

Q Is he related to Mr. Simon Srybnik?

A Yes. A brother.

Q What percentage would you say of your time was spent with respect to the S&S Machinery matters as opposed to Eon matters?

A It varied from week to week. But I would say as an average-- During the period that we are speaking of?

Q Yes. During the period that you were an officer and director of Eon.

A During that period I would say approximately 80 percent of my time was devoted to American Marc.

Q Did your employment as a vice president of S&S Machinery predate your employment with American Marc?

A Yes.

Q By how much?

A 1966.

Q By whom were you hired at S&S Machinery?

A By Mr. Simon Srybnik.

Q By whom were you hired as an officer of Eon?

A By Mr. Podell and Mr. Anton and Mr. Srybnik. They all talked to me at the time that I was asked to take the assignment.

Q Did you own any stock in Eon?

A Yes.

Q How many shares?

A 10,000.

Q When did you acquire those shares?

A September of 1969 or 1970. 1970.

Q Did you, to the best of your recollection, acquire those shares prior to your employment at Eon or after your employment?

A I would say after.

Q From whom did you acquire these shares?

A Mr. Simon Srybnik.

Q What was the consideration that you paid Mr. Srybnik for the 10,000 shares?

A About $350.

Q Per share or for the 10,000 shares?

A For the 10,000.

Q Are you still a stockholder of Eon?

A Yes.

Q Do you still hold today the 10,000 shares?

A Yes.

Q Are you still employed by S&S Machinery?

A No.

Q When did that employment terminate?

A December 31, 1972.

Q Do you know Mr. Harold Rouse?

A Yes.

Q Do you know Mr. Homer Coleman?

A Yes.

Q There came a point in time, did there not, Mr. Leonard, where you on behalf of Eon negotiated with Mr. Rouse and

price than what we were getting from the government, that it was a good business decision to do that.

Q Was it your decision to subcontract under the second year procurement or was it a decision of the Board of Directors of Eon?

MR. WEINBERGER: Objection to the form of the question. Are you talking in terms of concept of subcontracting or the specific arrangements with Teledyne, or anything like that?

MR. LANG: I am talking now with respect to the concept of subcontracting.

THE WITNESS: Well, the original concept, as I told you, was generated at the time that I reported the bids and the information that I had gotten from the government as to what everybody had bid on the job. And the decision was a suggestion by someone in New York at that meeting that we attempt to subcontract it for the two reasons that I gave.

MR. LANG: Q Was this discussed at a Board meeting in New York?

A Yes.

Q Do you recall the approximate date of that discussion at that Board meeting?

A I would say March of '71.

Q At that Board meeting, is that the time when the Board approved the concept of Teledyne attempting to subcontract on the second year procurement?

MR. WEINBERGER: Would you repeat that question, Mr. Reporter.

(The reporter read the foregoing question.)

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with them. However I just talked to them on the phone and he gave us a bid but he wasn't willing to bid the job to us for the same price that he bid it to the government for 2400 units, for some reason or other.

Q What about Hollingsworth's bid, was that higher than Teledyne's bid?

A Just slightly.

Q Are you the one who contacted LSI?

A No.

Q Who contacted LSI?

A I believe someone from New York Don.

Q Do you know who it was?

A No, not for sure.

Q How were you introduced to Teledyne?

A Through a Mr. Wolper, that is Eugene Wolper.

Q What was Mr. Wolper's position or interest in the matter?

A Well, he has previously told us that he had some contacts with Teledyne and knew the Teledyne people and suggested that they might like to subcontract the job.

MR. LANG: Q Was Mr. Wolper located on the West Coast?

A Yes.

Q Is Mr. Wolper the one who in fact was responsible for bringing Teledyne together with you and bringing about these discussions?

A Yes.

Q Did he in fact arrange a meeting between yourself and people from Teledyne?

A Yes.

Q And you in fact had meetings with Teledyne people?

A Yes.

Q When did this take place?

A May 10, 11th and 12th. I assume you are talking about the beginning.

Q The first meeting.

A The first meeting, yes.

Q May 10th, 11th and 12th of what year?

A '71.

Q Where did these meetings take place?

A Various places.

Q Who were involved in these meetings, first?

A The first meeting that I had with Teledyne was at the International Hotel on May 10th in the morning. Mr. Rouse, Mr. Coleman and Mr. Wolper were there.

Q Was there discussion at that May 10th morning meeting at the International Hotel with respect to the proposed subcontract?

A Yes.

Q Would you give us, to the best of your recollection, what was said and who said it?

A. Mr. Rouse said that he was a vice president of Teledyne and that Mr. Coleman was -- that one of his divisions was run by Mr. Coleman and that they were interested in the subcontract, which he understood from Wolper was for approximately 4,000 units, or the second year's procurement from the American Marc Division of Eon. He gave me some literature and background on the Teledyne Division at Walterboro, and in general we discussed their capabilities. I had been to Hollingsworth and it appeared that they had similar capabilities and had built government work and so on at that particular plant.

So that we then discussed what the contract consisted of. And in general they gave me enough information that I was satisfied that we should discuss further with them entering into discussions that involved the details. And at that point I took them over to the plant and showed them the equipment that we had and the units which they had already bid on. Of course, they knew what the units were.

I believe probably that first day we spelled out to them the terms and conditions under which we would enter into a subcontract.

Q What were the terms and conditions that you spelled out to them?

A In general what we had determined was that in the time frame that would be required, since we were pretty well finished with the first year's procurement, that we wouldn't be able to novate the contract, that we would merely issue a subcontract and that we would extend to them all the terms and conditions of the contract under which we were operating. That

A When we went back to the plant I think that Wolper was there for a short period of time but not during all the discussion.

Q You mentioned to Mr. Rouse and Mr. Coleman that you felt you were not able to novate the contract. I didn't understand why. What was the explanation for that?

A I think it was our feeling that it would be time consuming to try to novate the contract. Secondly it was a question in my mind of if we novated the contract how do we have a differential of price between what you would get paid and what we would get paid. We felt that if we would attempt to novate the contract, having Teledyne's bid on 2400, the government might cancel our contract and renegotiate the price when we went to novate, which didn't seem to make sense to anybody.

Q Did Mr. Rouse and/or Mr. Coleman suggest that the contract be novated?

A I believe initially he did.

Q Was that Mr. Rouse?

A Mr. Rouse.

Q What happened next?

A Now, for my own time frame, so that you will understand what I am talking about, I believe that was about all that happened the first day. The second day --

Q Which would be May 11th; is that correct?

A May 11th. To the best of my knowledge they came to the plant.

Q Again "they" is Mr. --

A Mr. Rouse and Mr. Coleman. I don't think Wolper came

different sources, and they would come in in all kinds of condition. And that work was done on an hourly rate and it was spelled out in our contract. So we extended that and gave you fellows that opportunity to do that rework. And that was finalized.

Q I am sorry I interrupted you. What else occurred and what else was discussed at the May 11th meeting?

A As I recall, the terms and conditions of entering into the subcontract were discussed in detail. As I say, Mr. Rouse had talked to someone in Teledyne and came back with a pretty specific list of information which he alluded to as having come from his attorneys. And we went over that.

Q Do you recall what matters were on that list?

A I think in general I said that before, but I will reiterate them for you.

They involved the inventory, the delivery schedule, the banking arrangement, the cost of the tooling. I really feel that most of the items that ended up in our May 12th agreement were discussed and proposed by Rouse at that May 11th meeting.

Q Do you recall anything else that was discussed at the May 11th meeting?

A No.

Q What happened next?

A I think in principle we had agreed, and it was proposed by Mr. Rouse that we enter into the agreement, issue a purchase order while he was still there, which was pretty quick. But anyhow we agreed to get ahold of our attorneys and I agreed that having throughout this discussion with all of these proposed subcontractors, I had been talking with New York, and it appeared

to me that we were satisfied that Teledyne qualified and that if we were going to enter into an agreement of this magnitude that we would have Mr. Anton come out and finalize it and meet with our attorneys and Mr. Rouse while he was there.

Q Who did you talk to in New York?

A Mr. Anton.

Q Anyone else?

A I don't believe so.

Q What was the nature of discussions with Mr. Anton?

MR. WEINBERGER: Do you want to specify a time and place on that so we can focus it on that as well?

MR. LANG: I think the witness is referring to telephone conversations you had back to New York during this period that you were negotiating here in L.A. with Teledyne.

MR. WEINBERGER: I don't know if that was said. I would like to clarify that.

THE WITNESS: Can I put a time frame on it?

MR. WEINBERGER: Sure.

THE WITNESS: I am specifically speaking of probably Friday of the week before, whatever that would be, May 10th was a Monday as I recall, and we had some discussions, Anton and I, because they had been contacting some of the other members or potential subcontractors.

MR. LANG: Q "They" meaning Mr. Anton?

A Mr. Anton and his people in New York. And then on May 10th I talked with your people, and I also talked with Holgar and reported to Anton. Then on May 11th I talked to Haggerty and talked to your people again. And then I think at

that time when I had Haggerty's price I then talked to Anton and suggested that he come out and meet with Teledyne.

Q Did you have authority as a vice president and director of Eon to negotiate and sign this contract without Mr. Anton coming out?

A Well, neither one of us would have that authority. I think my understanding is that at the time that Anton came out that he probably polled the Board and said, "This is what we have decided to do." It was a pretty large decision. I wouldn't have made the decision, if that is your question. I don't think I personally had the responsibility or authority to just go ahead and sign it without talking to anybody and getting his approval and the corporation's approval.

Q By "the corporation" you mean the Board of Directors' approval?

A Yes.

Q Did Mr. Rouse or Mr. Coleman request that Mr. Anton come out to California?

A I don't recall their coming.

Q You do recall that you requested them to come out?

A Yes.

Q What happened next, then, in these discussions?

A On the 12th Rouse and Anton and Coleman and I, I believe we met briefly at the office, or I picked Anton up at the airport, as I recall, and we met for a few minutes and then I don't think Coleman went downtown with us. I think that we left then and Coleman took off for South Carolina and we went to the attorney's office.

Q I show you a document which has been previously marked as Plaintiff's Exhibit 20-I for identification, and which purports to be a letter from you to Mr. Homer Coleman dated October 11, 1971, and ask if you can identify this for us, please.

A Identify it as to what?

Q Did you write that letter?

A Yes.

Q I want to read to you Paragraph 3 of that letter: "For the record, you and Harold will remember we pointed out from our first meetings that American Marc had no money from which to pay TCM except when it received money from the government as progress payments after the shipment or sale of generator sets had been made. The invoice included in the request for progress payment and the government sending us a progress payment check for that specific billing." Is that a truthful statement?

A Yes.

Q And you in fact advised Mr. Coleman and Mr. Rouse of the fact that American Marc had no money from which to pay except from progress payments received from the government?

A Yes.

Q So is it fair to say, Mr. Leonard, that during the course of your discussions and negotiations with Mr. Rouse and Mr. Leonard, Mr. Rouse raised a question as to the credit and ability of Eon to pay under the subcontract?

A Yes.

Q What were the nature of those discussions?

A In our discussions on May 10th and 11th we referred to having talked to someone at Teledyne in regard to a D&B that

they had gotten on his request on Eon Corporation.

Q What did he say about that D&B?

A He said that the Eon Corporation didn't appear to be in great financial straits --

Q Did or did not appear?

A Did not appear to be in great financial shape, and I agreed with him.

Q What else was stated?

A To the best of my recollection we discussed methods of having Teledyne be satisfied that they would get paid. And this Bank of America arrangement was the result of those discussions.

Q You confirmed to Mr. Rouse, as I understand it, that Eon was not in good financial shape and that Teledyne would have to look to the progress payments from the government in order to be paid; is that correct?

A Yes.

Q At that point in time did you advise Mr. Rouse or Mr. Coleman that there were sufficient funds still left in the contract to pay Teledyne in full under its subcontract?

A No.

Q You never mentioned that?

A Never mentioned it.

Q Did you know what the facts were with respect to how much was left in the contract, in the government contract?

A We made periodic progress payment requests that spelled that out, and I would have a general knowledge of where we stood on progress payments, yes.

Q And you would know?

A Yes.

Q From time to time did you receive reports from Mr. Walck or from anyone else as to how much money was left in the government contract?

A Yes.

Q And who would prepare these reports?

A Mr. Walck.

Q And would they go to you?

A Yes.

Q Would you submit these reports and send these reports to New York?

A Yes.

Q To whom in New York would you send the reports?

A One of two ways. I would either take them to a Board meeting as a division report, reporting our situation, or mail them to Anton.

Q And when you mailed to Anton would copies go to anyone else?

A Not normally.

Q And when you brought them to New York would they be discussed at these Board meetings in New York?

A Yes.

Q With respect to this Bank of America account, I don't want to put words in your mouth, but do I understand correctly that the idea of the Bank of America account was to assure Teledyne that it would be paid under the subcontract?

A Well, it was their request that we have an account

where the moneys would be deposited and that we would direct that the moneys be paid out of that account.

Q To Teledyne?

A Yes.

Q Was it also their request that the moneys not be paid out to anyone else until Teledyne invoices had been satisfied?

A No.

"Q What was the protection that Teledyne was going to receive from this bank account if other creditors could be paid out of the same account?")

THE WITNESS: I don't know.

MR. LANG: Q So you never understood what protection they were going to get; is that correct?

A My understanding of the bank account and the

reason it was set up, and the way it performed, was exactly as described in the documents that you have and Eon has, that the checks when they came in were to be deposited. Those were then to be identified with invoices that were outstanding from Teledyne and the payments would be made in accordance with those amounts that were due to Teledyne out of that account. And that is the way that it operated.

Q Did you instruct the Bank of America, or to your knowledge did anyone else from Eon instruct the Bank of America not to pay out any sums from that account until the Teledyne invoices had been paid?

A No, that wasn't ever set up that way and it wasn't requested that way.

Q Did you discuss the special account arrangement between Eon and Teledyne with anyone else from Eon?

A Yes.

Q With who?

A With the Board as a part of the -- with Mr. Anton as part of the agreement. They all were familiar with the agreement and what you fellows had requested, and that was the disclosure.

Q When did you discuss this Bank of America arrangement with the Board?

A I don't think I said I discussed it with the Board. I said in answer to your question, were they advised of the Bank of America, that I assume that Anton and the Board reviewed the proposed contract. Anton was here, he went over the thing, and he knew before he came out that it was one of the provisions of

the proposed agreement.

Q The Bank of America arrangement?

A Yes.

Q And he knew that before he came out to California?

A Yes.

Q Did you discuss this with him on the telephone?

A Yes.

Q What did you say to him with respect to it on the telephone?

A It appeared to me that it would be a reasonable request.

Q What is that?

A It appeared to me to be a reasonable request.

Q Did he agree?

A Yes.

(A short recess was taken.)

MR. LANG: Q Mr. Leonard, with respect to the reports that you received from time to time from Mr. Walck, which showed the amount that Eon had progress billed the government on the contract, and the amount that was left in the contract, how frequently were these reports prepared?

A Monthly, in that the reports that I am referring to majorly are progress payment requests. Do you understand what I mean by that?

Q By "progress payment requests," do you mean --

A It is a standard form.

A Yes.

Q In this letter that you sent to Mrs. Guy you state, "American Marc will notify the Bank of America and TCM the exact invoices and amounts that have been included in the American Marc request for payment from the U.S. Government." Did you in fact, or did anyone else from Eon notify the Bank of America of this?

A Yes.

Q Was that in written notification?

A In some case written, in some cases verbal. I would say in most cases written.

Q The letter goes on to state, "When the funds are received the check will be deposited in the special account and the bank will be directed to use the funds to pay the amounts of the invoices which were included in the payment check directly to TCM by cashier's check. The balance in the account will be disbursed according to the direction of American Marc Division of Eon Corporation." Was the bank in fact directed to use funds deposited in that account to pay the amounts of these TCM invoices?

A From time to time.

Q Were there times when the bank was notified to pay TCM invoices?

A I don't even understand what that means.

Q Were there times when there were oustanding TCM invoices and funds in the account but Eon did not instruct the bank to pay those TCM invoices?

A Yes.

Q When did that occur?

A To the best of my recollection, approximately May of 1972.

Q That is the first time to your knowledge that it occurred?

A Yes.

Q Do you know the reason why it occurred?

A No.

Q Who made the decision with respect to those unpaid invoices?

A I don't really know.

Q Did you make the decision?

A No, sir.

Q Was the decision made in New York?

A Yes.

Q I show you a document which has been marked as Tr Ex. 25 Plaintiff's ~~Exhibit 11 for Identification~~, which purports to be a document prepared by you entitled "News Letter," and it is addressed to Messrs. Simon Srybnik, Odif Podell and Nicholas Anton, and ask if you can identify this document.

A I identify the document.

Q Did you prepare that document and send it to Mr. Srybnik, Mr. Podell and Mr. Anton?

A Yes.

Q The penultimate paragraph on Page 1 of the paragraph states, and I quote: "The April shipments were on schedule and the progress payment was sent to New York for signature for approximately $81,000, which is the last as we are at the maximum of our 85 percent progress payment billings." Does this refer to

THE WITNESS: Could you do me a favor, could you show me the document that you read before? I assume that is one of the earlier documents. [Reference is to Pl. Tr. Ex. 9].

MR. LANG: Q. I showed you that document earlier.

A Could I see it again, please?

Q Surely.

A This is a document, for the record, then, of October 11 and not the document that I thought we were referring to at the beginning of the conversations. However, it does state that I made these statements earlier.

Q At the outset of your negotiations?

A Yes.

Q At the outset of negotiations you made that statement?

A Yes. That is what I say in there.

Q And you did make those statements, did you not?

A Yes.

Q I show you a memorandum dated June 12, 1972, which has previously been marked as Plaintiff's ~~Exhibit 5-A for Identification~~ Tr. Ex. 36 and ask if you can identify this document.

A Yes.

Q Who prepared that document?

A Mr. Jerry Davis.

Q Who is Mr. Jerry Davis?

A He works for Miller & Company.

Q And the document is addressed to you; is that correct?

A Yes.

Q Did you receive a copy of that on or about the date it bears?

A Yes.

Q Did you request Mr. Davis to prepare this document?

A Yes.

Q Was a copy of this document sent to New York?

A Yes.

Q Who was it sent to in New York?

A Mr. Anton.

Q Anyone else?

A No.

different accounts. This is merely $300,000 balance on the contract. It does not represent the total amount. And my offsetting amounts, if you would recall, come up to something like seven to nine hundred thousand.

Q What offsetting amounts? Where were those funds?

A Would you like to read him the report? Weren't you listening? MR. BERGER: I object to the record.

Q No, I guess I wasn't. Where were those funds? Where was the other money? me now. What did you say?

A At the meeting in New York Mr. Letts and the Teledyne people were advised, at the same time that I was, that there were funds available in various amounts which I previously specified. [illegible]

Q How much was available?

A To my offhand calculation it amounted to sufficient to pay Teledyne in full.

Q And where were these funds deposited? [illegible]

A In the Bank of America and some other bank in New York that Eon deposited money in. I was not a signature on the bank accounts, so that all I was getting was information at the same time that Teledyne was told this.

Q If there were sufficient funds available to pay Teledyne in June or July of 1972, do you know why Teledyne was not paid? [illegible]

A No. [illegible]

Q Did you have any discussions with anybody with respect to this?

A Yes.

Q With whom?

A With Mr. Anton.

Q And did you ask him why Teledyne was not being paid?

A Yes.

Q What did he say?

A He said that there were conditions --

MR. WEINBERGER: I object for the record.

MR. LANG: Q Go ahead.

A You lost me now. What did you ask me?

Q What reason did Mr. Anton give you for not paying Teledyne?

A He said that there were conditions in Eon that they apparently decided that they were not going to disburse the funds in accordance with the agreement.

Q Mr. Anton told you this?

A Yes.

Q And when you refer to "they," who was "they" referring to?

A I said "they." And you are asking me who "they" is?

Q Yes.

A I don't know.

Q You don't know, then, you didn't ask him that?

A No.

Q Mr. Leonard, what has been your experience with government contracts prior to the prime contract which is the subject of this action?

A Years ago I was a Director of Customer Relations for Hycon, and then we did a lot of government contracting at that particular time, back a period from, say, '57 to '59, or something like that. I don't know exactly what you would say --

Q What was your role?

A What was my role in jobs connected with government contracts?

Q Yes.

A That would be an experience that I had at that time. I was a customer relations man.

Q Did you deal with the government contracts, the administration of the contracts?

A No. We had a Contract Administration Department that

handled that. I obviously had to work with them, with the government, but what didn't happen to be under the contract administration came under the general administration and it reported to the executive vice president and not to the Director of Customer Relations. Essentially my job was sales, and under government contracting my understanding was you don't call it Director of Sales, you call it Director of Customer Relations.

Q So you had no involvement in the administration of that contract; is that right?

A Only as it related to a contract administrator being there when they had to negotiate a contract, or something like that.

Q Did you participate in the negotiation of government contracts in that position?

A In the broad sense, yes. In other words, I was the sales representative and customer relations, and it was our job to seek out government contracts and obtain them for the company.

Q Any other experience in government contracts?

A No.

Q Did you have any experience at Eon in government contracts, in addition to this prime contract for the generator sets?

A At the time I came into Eon, the American Marc Division, they had a couple of other contracts which we either completed or terminated, and I had that experience. There were, I believe, two or three small contracts other than the major contract for the one and a half.

Q You were responsible for completing the administration

of those other contracts?

A Well, I had a Contract Administration Department, but they in that particular case, the general manager worked for me and answered to me. And so I was pretty familiar with what they were doing.

Q In addition to progress payment request wouldn't Eon receive from the government liquidation payments when the goods that had been previously progress billed were in fact delivered to the government so that Eon would receive the additional 15 percent?

A You asked about that liquidation before. And what you are saying now is that when we would get the 15 percent, is that what you are saying? I don't know. I assume that you get the 15 percent at the end of the contract. Now, I am not sure of that. I don't know that we had -- you know, when that comes in.

Q You don't know whether it would come in as you deliver the finished goods or whether you would have to wait until the entire contract had been concluded before you got it?

A Yes, I am not sure about that. I don't know whether you get it progressively or not.

Q In determining the amount of money that was still owed Eon under the prime contract how would you make that determination?

A Well, normally I wouldn't personally. I would ask the Accounting Department to give me a reading if somebody asked me what was due, what we had been paid and what was left on the contract as a gross amount.

Q Did you do that? Did you attempt to have someone make such determination at or about or prior to the time you entered into the subcontract with Teledyne?

A I don't recall of doing it, no.

Q Did there come a time when you were requested by Mr. Anton to make such a determination?

Q So Mr. Walck would have a copy?

A Walck had a copy of it.

Q Where would Mr. Walck's copy be now, do you know?

A It would be in the accounting section of the files that went to New York.

Q So that there would be presumably at least two copies of this in Eon's documents in New York.

A Yes. The original would be in New York and our files, the American Marc files, and the copy should be in Nick's file.

Q Nick Anton's files?

A Nick Anton.

Q Do you know whether or not this projection that Mr. Walck prepared showed how much was left in the government contract?

A To the best of my knowledge the way a cash flow is made up is that they have a starting point and they go from month to month and show income from different sources and the amounts that are to be paid in that particular month. And in reference to this report they were broken down in some detail.

In other words, there would be four or five items of income and maybe four or five items of detailed disbursements anticipated. And if you added those all up I assume that you would end up with a total figure. But to the best of my knowledge or recollection that report would not specifically highlight a number, such as we were trying to determine this morning, how much was left in the contract.

Q But that number would be found [illegible] there within the

Now, as to assuring Teledyne, I don't personally feel that I ever assured Teledyne of anything except what the documentation indicates. And that is that to the best of my knowledge, addressing myself to the third part of the question, to the best of my knowledge in the gross amounts left on the contract there was enough money and that Teledyne entering in in good faith in the contract and we entering in in good faith in a contract would be paid.

Does that answer your three points?

MR. LANG: Q How did you know that from the best of your knowledge if you never tried to make that determination prior to June of 1972?

A. I would say that this morning I alluded you to reference to this document, and I again say that in my mathematical analysis of this document is that there is a three and a half million dollar contract, that we had received approximately a million and a half dollars. --

Q How much had you received with that progress payment?

A. Now you are making an assumption which I didn't make. I am telling you what I assumed, is that having in mind that we hadn't received the previous payment of one hundred sixty-three thousand and we hadn't received one hundred eighty-five, which is here. If you add that back into the total amount that we had previously requested, or subtract this amount from that, then that is the gross number rightly or wrongly that I had in mind at the time that there was enough in the contract to finish the job.

Q Did you inquire of Mr. Walck at or about this time

people called me and asked me to attend the meeting. And at this meeting, to the best of my knowledge, there were three people from Teledyne and Mr. Anton and Mr. Srybnik, myself and Mr. Frank.

Q Who were the three people from Teledyne?

A Mr. Letts, Mr. Bank and one other gentleman. I don't know his name.

Q Go ahead.

A At this meeting what I was saying to you is that it was my impression that Eon people said to Teledyne, "We had our reasons for not paying the last payment or two. There are funds available. There are somewheres around $200,000 in an account that was originally known to me as the Bank of America account, there is eighty-thousand approximately at another place. There are additional funds available." And in addition to that there was a statement at that time that there was something like eight or nine hundred thousand, or a million dollars worth of material that belonged to American Marc that was on consignment in Teledyne-Walterboro. And I get the impression at that meeting that if at that particular time you looked at the numbers that Mr. Coleman's people had prepared for him, which we had then later reconciled with our records, that there was, I would say, within fifty or one hundred thousand enough moneys available to pay that, with some references to future payments or credit on the inventory.

A No.

Q So you didn't know whether or not they had been paid to Teledyne or used for some other purpose?

A That's correct.

Q You did not know that?

A I did not know. You asked me two questions. One was "Yes" and one was "No."

Q I show you a document which has previously been marked as Plaintiff's ~~Exhibit 5 for Identification~~ Tr. Ex. 22, dated June 21, 1972, which appears to be a letter from you to Mr. Srybnik, and I ask if you wrote this letter on or about the date it bears.

A Yes.

Q This document to Mr. Srybnik refers to a meeting called in New York by Mr. Anton; is that correct? The very first sentence.

A Can I look at it?

Q Is that correct?

A That's correct.

Q On Page 2 of the first paragraph it says, "The second subject --" referring to the meeting "-- which was discussed at

some length during my visit was the financial situation of Eon in relation to the Teledyne Corporation." First, who was present at this meeting in New York?

A. I don't recall.

Q You have no recollection?

A I don't recall specifically who was there.

Q You know that Mr. Anton was present?

A Yes.

Q And you were present? [illegible], Anton?

A Yes.

Q You don't remember if anyone else was present or not?

A There were other people present.

Q But you don't know who they are?

A I believe Mr. Srybnik was there. And I just don't remember who else was there. It seems there were a couple of other people, but I don't recall.

Q Your letter notes, "As you know --" referring to Mr. Srybnik "-- shortly after the first of the year the Board of Directors decided that all financial control be handled out of New York." What was the reason for the change of financial control from Los Angeles to New York?

A I can only assume that I was no longer an officer, that they changed. In other words, the plant was closed down, there was no going on function here.

Q You next refer to the fact that in April Eon received two checks from the government as progress payment, one for $212,000 and one for $218,000. And then you state, and I quote: "The writer took a short vacation to Europe beginning the

last week in April, and during this period apparently Eon-New York decided not to send these checks to Teledyne. From what I can gather, during my absence Mr. Anton directed that these checks be held. Prior to my return, however, Mr. Anton directed apparently that one of the checks be mailed to Teledyne." Do you know why Mr. Anton held one of these checks and did not pay to Teledyne?

A No.

Q Did you ever discuss this with Mr. Anton?

A Later.

Q Later being when? This is dated June 21, '72.

A At the time of the meeting in New York, in June or July, that I spoke about before.

Q And that is when you discussed it with him?

A Yes.

Q What was the reason he gave you for not making his payment to Teledyne?

A He said that Eon had encountered some difficulties and that he had decided to not continue payment to Teledyne.

Q Did he say anything else?

A No.

Q You state here on Page 3 of your letter, "Since both the TCM account and the account with First City National in regard to the property are very important to Eon I would request that in the future instruction as to what I should or shouldn't do must be in writing. Obviously I do not know all of the ramifications of these accounts, and, therefore, cannot from this end attempt what to say or do at this juncture." What was the importance

that you are referring to of the TCH account?

A Well, as probably Homer and these other fellows have told you, they were calling me as an outside consultant who had been involved with the thing originally and asking me why they weren't being paid. And I was referring here to the people in New York that I couldn't answer these questions because I wasn't privy to what the problems were and why they weren't being paid. And I was not told in detail to this day why they stopped.

Q Did you discuss this, why they stopped making the payments? Did you discuss this with Mr. Srybnik?

A Yes.

Q When?

A Approximately the same week as this letter.

Q This letter meaning June 21, '72?

A Right.

Q Did you discuss that on the phone or in person?

A On the phone.

Q This is Simon Srybnik?

A Yes.

Q What did Mr. Simon Srybnik tell you?

A Well, he told me the same thing approximately that Anton did, that there were problems with Eon that I didn't know about and that they were trying to resolve, and Nick Anton had decided to withhold the second payment there pending a determination of what they could do.

Q Did he tell you what they were going to do with the funds?

A No.

billed them somewhere around a million and a half.

Q On the inventory?

A Not on the inventory, on the total. Sorry, I didn't answer your question.

Q Did you know how much you had progress billed on the inventory?

A No. I had no way of knowing in detail.

Q Now going back to your June 21 memo to Mr. Srybnik, and the so-called discussion at some length as to the financial situation of Eon in relation to Teledyne, what was the nature of that discussion?

A Can I see that for a minute?

Q Yes. Referring to the second page of Plaintiff's ~~Exhibit 5 for Identification.~~ Tr. Ex. 22

A What was your question now?

Q The question was, what was the nature of those discussions as to the financial situation?

A To the best of my recollection it is covered pretty well by the following paragraph which centered itself around the fact that there were checks deposited and there were amounts due to Teledyne and what was going to be done about this.

MR. LANG: Q I am talking about the discussions at the meeting.

A The discussions here refer to the meeting, not specifically, although the letter was written afterwards.

Q Right.

A In the meeting I think pretty well all the ramifications of the situation were discussed as of that particular point in time. But I wasn't at that time or any time told, you know, what their intentions were as far as additional funds or where these funds went or anything else.

Q Going back to your letter to Mr. Coleman dated October 11, 1971, which has been marked as Plaintiff's ~~Exhibit 20-I for Identification~~ Tr. Ex. 9, your concluding paragraph states as follows: "We --" referring to Eon "-- will pay you as we agreed and you have the largest bank in California acting as a monitor in your behalf, any other agreement of veiled threats are meaningless." What did you mean that Teledyne had the largest bank in California acting as a monitor in its behalf?

A Well, my assumption was that if you fellows had contacted the bank and knew of the arrangement, and to my knowledge up to the time that I was involved directly all of the

terms and conditions of our agreement with the bank were complied with. And as far as their monitoring, my impression with monitoring was that they at the time that this was written, Mr. Walck and I were the only signatories on that account. And our agreement was that we would advise them when the deposits were made to pay you fellows on the basis of the invoices that had been included in that particular period of time. And this progressive series of payments is borne out in the bank statements, I believe.

Q What was the bank monitoring? I don't understand how the bank was acting as a monitor on behalf of Teledyne.

A Well, my understanding was that we tell the bank to make out a cashier's check and send it to you. Now, to me that is a form of monitoring. It is a method or a way of doing business.

We thought that we were entering into an agreement that apparently satisfied your people, and if it had continued to perform as agreed to by Rouse and myself, and everybody else, I think we wouldn't all be here.

Q How did this special account differ from a regular checking account, if you know?

MR. WEINBERGER: If it does in fact.

MR. LANG: If it does in fact differ.

THE WITNESS: I think I can answer that.

MR. LANG: Q Okay.

A Could you read the question back?

Q The question is simply, as you operated this account and dealt with this account how did it differ from a regular

checking account in the bank?

A It differed in the beginning, at the time of our entering into the agreement with Teledyne, specifically that I had a general account at the United California Bank. And if you will review the account at the Bank of America, at the beginning, other than paying Teledyne transfers for other purposes were transferred in bulk to another general account. Now, we consider this as a separate account.

MR. LANG: I am sorry, could you read that?

(The reporter read the answer.)

MR. LANG: Q Do you want to clarify that answer in any way?

A No.

(A short recess was taken.)

MR. LANG: Q Did you know a company called Canron Limited?

A Yes.

Q Was Canron a subcontractor of Eon under the prime contract for the generator sets?

A Yes.

Q In connection with the Canron subcontract did Eon open a quote special account unquote with the Bank of America?

A Yes.

Q Do you know a company called Electromagnetic Industries, Inc.?

A Yes.

Q Was Electromagnetic Industries, Inc. a subcontractor of Eon under the prime contract?

A Yes.

Q In connection with the payment by Eon of the work performed by Electromagnetic Industries, Inc. did Eon open a quote special account unquote with the Bank of America?

A Yes.

Q Were these different accounts than the special account that was opened by Eon at the Bank of America on behalf of Teledyne?

A Only to the extent that those two accounts had been closed and completed prior to the time that the account was used for Teledyne.

Q You mean that these two companies had been paid by Eon before any moneys were due to Teledyne under the subcontract?

A To my recollection, that is correct.

Q Were special accounts opened on behalf of Canyon and Electromagnetic the same type of account as was opened on behalf of Teledyne?

A Yes. The method was the same.

Q And you had the same intention with respect to both accounts?

A All accounts.

Q When you were negotiating with Mr. Rouse for the subcontract you had discussions with Mr. Rouse as to the protection which the special account at the Bank of America would give Teledyne; is that correct?

A I didn't specifically discuss the protection, other than from the standpoint that this was a method where he made the suggestion that these accounts be a separate account. And the only protection inferred was that if a company has a general account and they have a lot of general creditors, that if the general creditors go after the general account, if you have an isolated account short of a Swiss bank account or something, it might give insulation, if you want to call it that.

Q Did Mr. Rouse say that to you or did you say that to Mr. Rouse?

A Neither.

Q What did Mr. Rouse tell you as to why he wanted a special account at the Bank of America?

A I think previously we discussed this DCAA report on Eon indicated to Teledyne that to the best of their abilities they should try to associate themselves as closely as possible, I guess, with the government funds that were available on the contract.

Q But if, as you say, Eon was free to withdraw funds from this account before Teledyne was paid its invoices what protection did this give Teledyne?

MR. WEINBERGER: I object to the implication that that was the original intention between the parties or that that was expressed that way.

MR. LANG: Q Would you answer the question?

A Would you read the question back?

(The reporter read the pending question.)

THE WITNESS: I am in no position to guess what Teledyne felt that they got in the way of protection by having this special account. I did the best I could to answer your question before, that in good faith I felt that it protected Teledyne with these lump sums of money from the government going into that account rather than have them in a general account or any other account that was known to all of the people that we were paying on a day-to-day basis.

MR. LANG: Q Did you ever discuss this with Mr. Rouse? Did Mr. Rouse explain to you, articulate to you in any way, what his understanding was of the protection that would be afforded Teledyne by the special account?

A No.

Q He never mentioned it, other than to say he wanted a

special account?

A That's right.

Q And you never mentioned to him what you thought the benefits or advantages would be to Teledyne of having such an account?

A No. I merely agreed to open it or to provide that account.

Q We referred earlier to a letter that you wrote whereby you said that the Bank of America was acting as a monitor on behalf of Teledyne. When that letter was written was the account still being operated as a special account or was it then being used as a general account?

A I can't answer that without checking the records.

Q It was October 11, 1971.

A To the best of my knowledge it was still a special account.

your relationship with Curtiss-Wright in terms of years?

A From 1960 to 1966 I was vice-president of operations and from 1966 to 1972 I was senior manufacturing consultant.

Q In connection with your employment with Curtiss-Wright, did you ever supervise or engage in administration of government contracts?

A Not in the administration. I executed the work of government contracts. There is a big difference between that and administration.

Q Did Curtiss-Wright at the time that you were either a vice-president of operations or senior manufacturing consultant itself have contracts with the United States Government?

A Oh yes. The lion's share of its business was with government agencies, defense oriented agencies.

Q To your knowledge, did Curtiss-Wright ever progress bill the United States Government for any production contracts with the government that it had?

A Yes. I recall that they had provisions for progress payment as well as fixed price contracts without progress payment.

Q During any of your time at Curtiss-Wright, were you involved in any form of financial analyses of

these government contracts that Curtiss-Wright had?

A No.

Q Did you prepare or were under your direction prepared production schedules?

A Oh yes, production schedules were prepared.

Q Were you concerned with budgeting and costing of these production contracts?

A Only as they were submitted by the accounting department for meeting those budgets.

In other words, the contract was broken out into labor, material, overhead, and the segment that I was usually involved with was designated to the various departments that we then chopped out.

Q In the course of any of these contracts, did Curtiss-Wright ever subcontract portions of its contract?

A Sure.

Q When did you first meet Mr. Simon S[illegible]nik, a defendant in this law suit?

A About 1965, '66, in that time span.

Q Was it at Mr. Srybnik's request that you assumed the chairmanship of the board of Eon Corporation?

A I think it was at the request of the other board members. I was first asked to become a board member by Mr. Srybnik, yes; but I don't think he asked me to be the chairman of the board.

Q Incidentally, are you on any other boards of directors at the present time?

A No.

Q Were you in 1966 or 1967, when you first became a member of the Eon board?

A No.

Q When did you first meet Mr. M. J. Leonard?

A On one of my trips out West. I was always involved with the aerospace industry, and many of my business associates were on the West Coast.

I would say it was around 1966.

MR. FELDSHUH: 19 what?

THE WITNESS: '66, thereabouts. I got to know him as a result of Simon Srybnik.

Q Was this at a time prior to Mr. Leonard

Q Did any of your visits involve the profitability of American Marc Division or attempts to make it more profitable and so on?

A Always.

Q When did you first serve as a consultant for it?

A About 1968 or thereabouts, '68, '69, closer to '68.

Q Did there come a time when you had transferred to you shares of Eon Corporation stock?

A Yes.

Q Approximately how many shares?

A Exactly 10,000 shares.

Q Do you recall the date of this transaction?

A No. It was about the same time that Srybnik and Kerns acquisition of Eon stock, say about, I would say within three months after that acquisition.

Q What was the consideration paid for that 10,000 shares?

A The same price that they did. I think a penny a share -- I paid $100.

Q Did there come a time, Mr. Fodell, when you were informed that a subcontract had been entered into?

A Yes, I was informed.

Q Do you recall approximately when you were informed?

A I think Nick Anton told me, it must have been around May of '71 or thereabouts, that a subcontract was negotiated with Teledyne.

15 Q Did there come a time when you, as a member
16 of the board of directors, authorized the opening of a
17 bank account at the Bankers Trust Company in New York,
18 in the name of American Marc Division?
19 A Yes.
20 Q Was it your understanding at the time that
21 this was part and parcel of the transfer of the adminis-
22 tration of the contract to New York?
23 A Yes, it was part of the phase out program. We had
24 nobody there in California.
25 Q Did you ever have occasion to review any

or Walck or Hall or Miller & Co. I wouldn't know.

Q Mr. Podell, Mr. Anton in his deposition has stated that in approximately July or August of 1971 he learned that there would be a cash flow shortage of approximately $200,000 under the contract, the contract with the United States Army; and that he discussed this with other directors in relation to the problem of paying Teledyne.

Do you have a recollection of any such meeting at which Mr. Anton raised this or any conversations with Mr. Anton?

MR. FELDSHUH: Is it not a fair report of Mr. Anton's testimony to say that Mr. Anton in July or August of '71 was either informed or learned about a possible shortage at the end of the performance of that contract of approximately $150 to $200,000 at the end?

MR. MITCHELL: That is correct.

A What is your question? Did he let us know about this? Is that your question?

Q That is correct.

A Yes. I don't know whether it was at a formal board meeting or through informal discussion, but we were alerted that there would be a shortage in cash for

the completion of this contract.

Q To your recollection, was this the correct time period? I forget whether he said June, July or August, but approximately was that the correct time period, to your recollection?

A I can't recall, but --

Q Do you recall being shown any financial projection which embodied this cash flow shortage at the end?

A No, I don't recall that at all.

Q Was there any discussion had with Mr. Anton by yourself or any other directors concerning his report?

A Yes.

Q To the best of your recollection would you state what was said and by whom in connection with this discussion?

A We were concerned about the shortage potential, and we reviewed how we could make it up, through what techniques, what resources were at our disposal, for making this up; and we reviewed the various techniques for that.

I forget now what they were, but there were several of them. One had to do with the disposal of the product line. Another had to do with the sale of inventory of the product line, which by the way, they are still getting

Q Were you aware at approximately the time it occurred, of Mr. Anton's visit to the West Coast in May of 1971, to sign the agreements under consideration here?

A I knew Mr. Anton went out to negotiate a contract, the details of which I did not know.

Q How many bank accounts did American Marc Division maintain during the time that you were with them?

A Locally we had two.

Q At what bank or banks were these accounts?

A Would be the regular commercial account was with United California --

Q Let me stop you a second. Had that been an account which was opened prior to September of '69 when you came with American Marc Division?

A Yes.

Q And did that stay open as an account up until April or so of 1972 when you left?

A No.

Q Did there come a time when that was closed down?

A Yes. We did close the account, I don't remember when. It was in 1971 but I don't remember what month.

Q What person or persons was or were authorized to sign checks on this account?

A I don't know all of the authorized signatures. Mr. Leonard and myself were authorized.

Q Individually authorized?

A No. It required two signatures on that account.

Q What about the other bank account?

A The other bank account was with the Bank of America.

Q Had that been an open account in September of '69 when you first came with American Marc?

A No.

Q When was that opened?

A I don't remember.

Q Did you personally have anything to do with the opening of that account? Did you prepare any documents or anything like that?

A No. Mr. Leonard opened the account.

Q Was there any designation of this account in the office of American Marc? How would these two accounts be distinguished?

A Merely a different account number assigned.

Q Was there any reference within the American Marc office of one account as being a general account and the other account as being some other form of account?

A No, not that I recall.

Q Was there any functional division between these two accounts as to which types of funds would go into one as opposed to the other?

A At some point in time, and I don't recall that particular time, this Bank of America account received all of the deposits of progress payments.

Q Was the purpose for setting up this Bank of America account to deposit progress payments under the generator set contract?

A Yes.

Q Were there any other purposes in addition to this purpose for setting up that account?

A Yes. There was one vendor that, and I don't recall which one, that requested that a cashier's check be issued in payment of their invoices.

Q Who had authorization at American Marc to sign checks on this Bank of America account?

A Originally Mr. Leonard and myself.

Q Was there any policy at American Marc as to whether you or Mr. Leonard would sign particular checks in this account?

A Not really, no.

Q Were deposits in this account made up of funds coming from the government contract?

A Yes.

subcontract?

A I don't know that.

Q Did you, subsequent to entering into of the subcontract, learn that there had been negotiations between American Marc and Teledyne Continental Motors concerning the setting up of a special account at the Bank of America for Teledyne Continental Motors?

A Yes. I saw a copy of the agreement. I believe that indicated a special account would be set up.

Q Do I understand from your previous testimony that no special account was in fact set up indicates that that agreement to set up a special account that you testified having seen was not in fact carried out?

MR. WEINBERGER: I am going to object to that question as to form, because, one, you are using a term, Mr. Mitchell, that I think is the very subject of litigation, as to what was intended by the words "special account" and what actually took place. And I think that the implications that you choose to make with those terms are not necessarily what was agreed to.

MR. LANG: Would you read the question back to the witness so he has it in mind.

THE WITNESS: That's all right, I know what it is.

I think the intent of American Marc when they entered into the agreement was that there would be no suppliers other than Teledyne Continental Motors, and therefore this account at the Bank of America was the special account that they referred to.

special account which we have opened at the Bank of America for this purpose." And I ask you if in fact American Marc opened a special account at the Bank of America for the purpose of paying Teledyne Continental Motors.

MR. WEINBERGER: Objection to the form of the question.

THE WITNESS: No, no special account was opened.

MR. MITCHELL: Q I believe you testified earlier as to the intent of American Marc at the time of the negotiations with Teledyne Continental Motors as to setting up the special account, and you stated that no suppliers other than Teledyne Continental Motors would be paid because there wouldn't be any other suppliers at that time.

A That's correct.

Q Were in fact payments made from this account to business entities or persons other than suppliers?

A As I recall, after closing the United California Bank account there were some small utility bills and things of that nature that were paid out of the account.

Q What about salaries of employees and personnel at American Marc?

A Yes, they were, too.

Q This would include Mr. Leonard?

A Yes.

Q And this would include your salary?

A Yes.

Q With regard to the intention of American Marc at the time of any entering into the contract with Teledyne Continental Motors with regard to the special bank account, was it the

additional intention of American Marc to make transfers of funds to United California Bank from this Bank of America account?

MR. WEINBERGER: Objection as to form.

THE WITNESS: Yes, it was, until such time as our suppliers were paid, other than Teledyne Continental Motors.

MR. MITCHELL: Q Just so I can have this clear on the record, it was the intention at the time of entering into the Teledyne Continental Motors subcontract to make transfers in the future from the Bank of America account to United California Bank?

A Yes, sir.

Q And were there in fact to your present recollection transfers to United California Bank subsequent to the entering into of the Teledyne Continental Motors subcontract?

A Not that I can recall.

Q I will show you some documents previously identified as Plaintiff's ~~Exhibit 21 for Identification~~ Tr. Ex. 30, being photocopies of stubs from a checkbook from a Bank of America checking account. And on pages which I will show you there are entries thereon indicating checks made out on May 13, 1971 of $20,000 to United California Bank, on May 20, 1971 of $10,000 to United California Bank, May 25, 1971 of $5,000 to United California Bank, on June 1, 1971 in the amount of $63,643.75 to Bank of America, the stub indicating cashier's check for Canron Limited. On July 1, 1971 to United California Bank in the amount of $10,000, on July 7, 1971 to United California Bank in the amount $10,000, on July 8, 1971 to United California Bank in the amount of $10,000, on June 1, 1971 to Bank of America stub indicating

A Yes.

Q And you knew as of May 12, 1971 that there were insufficient funds in the government contract from which Eon could pay Teledyne under the subcontract.

A Yes.

Q You knew that as of May 12?

A Yes.

Q You discussed this fact with Mr. Leonard; is that correct?

A Yes.

Q I am curious as to what Mr. Leonard said to you when

you discussed this with him.

A I don't recall that he said anything. This was a continuing discussion. If we had not subcontracted to Teledyne Continental Motors, we were going to be short of funds to operate the plant until the completion of the contract. So this was nothing startling.

Q This was well known by Mr. Leonard?

A Yes.

Q And it was well known by the people in New York as well?

MR. WEINBERGER: Objection.

THE WITNESS: I don't know.

MR. LANG: Q Did Mr. Leonard discuss this with the people in New York?

MR. WEINBERGER: Objection.

THE WITNESS: I don't know. I assume that he did.

MR. LANG: Q Did they have the information in New York from which they could have learned these same facts?

MR. WEINBERGER: Objection.

THE WITNESS: I am sure they received copies of my projections.

MR. LANG: Q You were aware of the fact, were you not, Mr. Walck, that Teledyne Continental Motors was going to be paid from sums received by Eon from the Army in the form of progress payments?

A Yes.

Q Didn't you have any discussion with Mr. Leonard and say to Mr. Leonard, "How are you going to pay these people from

progress payments when there weren't enough progress payments to pay them?"

A There would be sufficient progress payments to pay until, as I recall, nearly the end of the contract.

Q Then what was going to happen at the end of the contract?

A I have no idea.

Q You didn't discuss this with Mr. Leonard?

A I think that was between he and the home office in New York.

MR. LANG: I object to the use of the term "manifest."

MR. WEINBERGER: Q Did they ever ask you in any manner whether or not there were progress payments made by the government to Eon or American Marc?

A Not that I recall.

Q Did they ever ask you what was the total amount of moneys left in the government contract, left to be paid out to American Marc, as of May 12, 1971?

A No.

Q Did you ever hear of them ask anyone else, or make any reference to those two subject matters, progress payments or amount of money left in the contract?

A I didn't hear them.

Q Did you ever hear anybody make any representation to them as to whether or not there were any progress payments or whether or not there was any amount of money in the contract?

A Not that I recall.

Q Do you have any knowledge of any member or personnel or officer or employee of Teledyne ever making inquiry to you at any time as to the amount of money left in the government contract as of the time of the entering into the subcontract or with respect to the existence of any progress payments?

MR. LANG: I object to the form of the question.

MR. WEINBERGER: Q You can answer it.

A I can't recall any.

Q Did there come a time that you had occasion to learn about the contents of the May 25, 1971 letter from Mr. Leonard to Bank of America, attention Mrs. Guy?

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A Yes.

Q When did that first come about?

A I am sure it was shortly after the letter was written.

Q Did you read that letter at the time?

A Yes, I did.

Q To your knowledge did American Marc deviate from what was said would be done in that letter?

A I have to reread it. The letter was followed.

Q Did American Marc immediately invoice the United States Government for the units shipped by Teledyne Continental Motors pursuant to invoices sent by Teledyne to American Marc?

A Not immediately. Early in the month following for the entire preceding month.

Q Did American Marc notify the Bank of America and TCM the exact invoices and amounts that had been included in the American Marc request for payment from the U.S. Government?

A Yes.

Q When the funds were received from the United States Government were the checks deposited in the Bank of America account as specified in this May 25, 1971 letter?

A Yes, they were.

Q And did American Marc direct the bank to use the funds to pay the amounts of the Teledyne invoices which were included in the payment check directly to Teledyne by cashier's check?

A Yes.

Q Was that followed?

other checks had been issued on that account in the interim to other creditors; is that correct?

A That is correct, they would have no way.

Q You testified that your belief was that it was the intent of American Marc to pay Teledyne under this contract; is that correct?

A Yes.

Q You are aware of the fact, are you not, that Teledyne was to be paid from sums received by Eon from the government contract?

A Yes.

MR. WEINBERGER: Objection.

MR. LANG: Q And you were aware of the fact before that subcontract was even made that there were insufficient funds in that government contract from which Teledyne could be paid?

MR. WEINBERGER: Objection.

THE WITNESS: Yes.

MR. LANG: Q From where and how did Mr. Leonard suggest that Teledyne was going to be paid under the subcontract?

A I don't know that Mr. Leonard suggested anything. I made an assumption that the other divisions of Eon were sufficiently profitable to get the money out of New York.

Q But did you know that Mr. Leonard had told Teledyne that they could only get the money from the government contract?

MR. WEINBERGER: Objection. That implies that that is what was stated and I must object to the form of the question.

THE WITNESS: Not only from the government contract.

MR. LANG: Q You didn't know that?

A 750 East Green Street in Pasadena.

Q What is your business, Mr. Wolper?

A Corporate development, finding products, companies, product evaluation for companies, inventions.

Q Were you involved in any way in the subcontract between Teledyne Continental Motors and American Marc Division of Eon, which was executed in May of 1971?

A I guess the answer to that would be, yes.

Q What was your involvement, please?

A I found Teledyne as a purchaser for a subcontract.

Q At whose request?

A Mr. Leonard's, Mr. M. J. Leonard.

Q Of what company?

A Of American Marc Division of Eon.

Q Did you introduce the parties to each other?

A Yes.

Q Did you receive as a result of that introduction, your efforts in that behalf, a finder's fee from Teledyne?

A It was called a sales commission, for lack of another name.

Q A sales commission. And what was that commission?

A $5 on every unit shipped.

Q Did you receive your entire sales commission?

A Yes.

Q And that was with respect to how many units?

A 4316, more or less.

Q Did you have any discussions with Mr. Leonard shortly after the execution of the subcontract?

A In what regard?

Q With regard to the desirability of the subcontract from the point of view of Eon American Marc.

A Yes.

Q Could you tell us where those discussions took place and when they took place?

A You are talking of subsequent?

Q Yes.

A Well, I would say it was after all the papers were signed and everything, we went to lunch and he seemed to be extremely happy that it was consummated.

Q When was this luncheon? Approximately how long after --

A A day or two after the final papers were all consummated.

Q Did he indicate why he was happy with the subcontract?

A Yes.

Q What did he say?

A Well, he was happy because of the fact that the parent corporation were interested in subcontracting it and dissolving the corporation -- and his dissolving the division.

Q Did he indicate to you at that time, during the course of that luncheon, whether or not American Marc had progress billed the government under the prime contract?

A No. There was no discussion as to the financial end of it, as to progress payments, or anything that I remember.

Q Did he indicate to you at any time that he was happy to have this subcontract because Eon was, in substance or effect,

place in which they had a cheaper labor market, that they might be able to fold this in and do it. That was the result of the phone call.

He said, "Well, let me call you back."

Q Did he?

A That night he called me back and he said he would like to come out to the West Coast and look it over, could I arrange for hotel reservations and he would be out Monday morning.

Q How long before Monday did this conversation take place?

A Over the weekend.

Q Then did you make arrangements with Mr. Leonard to meet with Mr. Rouse?

A Yes. On Monday.

Q At the time that you made this arrangement did you inform Mr. Leonard about this $5 per unit compensation?

A Yes.

Q Was that in writing?

A Well, he told me that they only wanted three fifty-five.

Q Who told you?

A Mr. Leonard. If I could have gotten three seventy, then the difference was mine. If I only had three fifty-five, then I was spinning my wheels.

Q Did you literally discuss with Mr. Leonard compensation?

A Yes. It had to be an add-on, if that is the answer to

your question.

Q When did this discussion take place?

A Oh, prior to ever even contacting anybody.

Q Was there any arrangement in writing?

A Didn't have to be, because of the fact that the American Marc wasn't going to pay anything. Why should it be in writing?

Q Prior to this meeting with Mr. Rouse did you know or did Mr. Leonard ever tell you what were the specific dollar amounts of the government contract in terms of what the total contract was?

A You mean as far as total sum?

Q Yes.

A Not exactly.

Q Did he tell you or give you any indication as to the nature of any progress payments that were made?

A Would you repeat that and be a little more specific?

Q Did he tell you the dollar value of any progress payments that were made?

A No.

Q When you called Mr. Rouse -- By the way, did he tell you about any progress payments prior to May 12, 1971? Mr. Leonard, that is.

A Only that at previous times we discussed the fact that they were overdrawn in their progress payments. They had overdrawn.

Q When he told you that they were overdrawn was anybody present when he told you that?

MR. FELDSHUH: No objection, your Honor.

THE COURT: Received.

(Plaintiff's Exhibit No. 20 received in evidence)

MR. MITCHELL: As Plaintiff's Exhibit 21, an Eon annual report, printed annual report, dated 1971.

MR. FELDSHUH: No objection, your Honor.

THE COURT: That will be received.

(Plaintiff's Exhibit No. 21 received in evidence)

MR. MITCHELL: Plaintiff's Exhibit 22, a letter from M. J. Leonard to Mr. Simon Srybnik, dated June 21, 1972.

This also indicates a pretrial identification number and, for the record, was produced from the files of Eon Corporation.

MR. FELDSHUH: Your Honor, I object to such portions of this profferred exhibit with regard to the contents thereof insofar as upon the occasion of the date, June 21, 1972, Mr. Leonard was no longer an employee of American Marc.

With respect to receiving this instrument, I will concede that the instrument was received, but I object to its contents on the gound it is not binding

upon the defendants.

MR. MITCHELL: May I state, your Honor, that Mr. Leonard was employed as a consultant.

He was no longer an officer or a director, but was employed as a consultant of Eon Corporation for the entire year 1972.

I am also introducing this for the knowledge to which the addressee had.

So the contents of the letter is important on the issue of knowledge, the addressee's knowledge.

gtbr 1

THE COURT: Refresh my recollection as to who Mr. Srybnik was.

MR. MITCHELL: Your Honor, he was a director of Eon Corporation and a defendant in this lawsuit.

THE COURT: And this is offered on the issue of his knowledge on June 21, 1972?

MR. MITCHELL: That is correct, your Honor.

MR. FELDSHUH: From that point of view, your Honor, this obviously may be a self-serving document as to whether or not this imputed knowledge of the defendant to the facts therein asserted. I say that that is subject to objection.

All that this shows is that on June 21st --

THE COURT: Mr. Srybnik is a defendant?

MR. FELDSHUH: Yes, your Honor.

THE COURT: And you conceded that he got the letter?

MR.FELDSHUH: Conceded the letter was received.

THE COURT: Then on June 21st he knows what the letter said. You may disagree with the information, but --

MR. FELDSHUH: Only insofar as that this is a communication from Mr. Leonard.

Your Honor will recall I did concede its receipt, no question about it, but whether or not the truth of the

Q Mr. Anton, what directors were present on the meeting held on April 27, 1971?

A Mr. Odif Podell, Mr. Nicholas Anton, Mr. James Leonard, Mr. Saul Waller and Mr. Simon Srybnik, five people.

THE COURT: What date was this?

MR.MITCHELL: This was April 27, 1971.

Q And who was present at the meeting on August 17, 1971?

A Mr. Odif Podell, Mr. Saul Waller, Mr. Simon Srybnik, Mr. Nicholas Anton. Mr. Melvin Srybnik was there by invitation, he was not a director.

THE COURT: Is he the brother of Mr. Simon Srybnik?

THE WITNESS: No. he is a nephew.

Q Who was in attendance on October 15, 1971?

A Mr. Odif Podell,Mr. Simon Srybnik, Mr. Nicholas Anton Mr. Saul Waller and Mr. James Leonard.

Q Who was present at the meeting on January 21, 1972?

A Mr. Odif Podell, Mr. Saul Waller, Mr. Nicholas anton, Mr. James Leonard and Mr. Simon Srybnik and Mr. Mel Srybnik.

THE COURT: By invitation again or was he a director at that time?

the minutes of that meeting.

A Yes. It says over here, "A discussion was then held concerning the possible sale of some of the equipment and/or divisions of the company authorized to obtain cash for the partial liquidation of the existing bank loan."

It continues, "One of the suggestions made was to see whether," and so on and so froth.

Q Mr. Anton, in this connection, was one of the reasons of the sale or the liquidation of the American Marc Division and the subcontract of the prime contract to eliminate losses that with occurring at the American Marc Division?

A I am really sorry, I cannot hear you. Could you move a little closer.

Q Mr. Anton, was one of the purposes of liquidating the American Marc Division and finding a subcontractor to take over its last contract, was one of these purposes the termination of the loss which American Marc Division was showing on the consolidated financials of Eon Corporation?

A That was the purpose, to try and close down the American Mark Division and in order to do that the last remaining piece of business was the contract which was then being performed, so if it would be possible to subcontract the

Q At this time, and I am referring to as of August 17, 1971, had you or, to your knowledge, anyone else from Eon or its American Marc Divison contacted anyone from Teledyne Continental Motors to request their approval of the transfer from California to New York?

A The answer is no, we didn't find any reason to do that.

THE COURT: What was the date of these minutes you are talking about?

MR. MITCHELL: These minutes, your Honor, were dated August 17, 1971.

Q Mr. Anton, by August 17, 1971 had the remaining members of the board of directors toher than yourself been informed as to the subcontract with Teledyne? Were they aware that the prime contract had been subcontracted?

A Prior to this August 17th date?

Q The date was May 12th that you were out in California.

A Prior to that date?

Q By August 17, 1971 had you communicated to the remaining board of directors that the subcontract was in effect?

A Yes.

Q Had you at that date indicated how the subcontract

records.

Q Is it your testimony now, Mr. Anton, that the first time you were aware of the special account was in '72?

MR. WEINBERGER: I will object to the emphasis on the word now, your Honor, in terms of the questioning.

THE COURT: OVERRULED.

A Special account does not mean anything to me. If you can identify the thing, then I would be able to answer you.

Q I am referring to special account at the Bank of America.

A The American Marc account at the Bank of America in California?

Q How many bank accounts did American Marc have in California?

A The United California account, which was the main account, and the Bank of America account, which was a deposit account.

Q A deposit account for what?

A For moneys which Mr. Leonard thought would be best kept in the Bank of America.

I can explain that very clearly if you like.

Q Did you disagree with Mr. Leonard that they should be kept in the Bank of America?

A I had absolutely nothing to do with Mr. Leonard. Mr. Leonard was a senior vice president in complete charge of his operation.

Q Did Mr. Leonard report to you?

A No,sir.He just talked to me.

Q He talked to you without reporting to you?

A Let me finish. He never reported to me in the sense that I could tell him what to do or overrule him or direct him what to do.

He just let me know.

Q Did he give you information?

A Pardon me?

Q Did he give you information from time to time?

A Yes, sure.

Q Was that information related to American Marc operations?

A Of course.

Q Did American Marc have any operations in 1972

other than performing under the contract with the Government?

A If I understand your question, did American Marc have any other income besides--

Q Did it have any other contracts it was working on?

A They did not have large contracts. They had a very substantial number of small sales, yes, sir.

Q But compared in aggregate to the generator set contract they were small?

A The numbers are 200,000 of commercial business against a million some odd dollars of Government contracts.

Q Did Mr. Leonard give you information from time to time concerning the status of the generator set contract?

A I would say yes.

Q I refer you, Mr. Anton, to the minutes of the board of directors meeting of October 19, 1971, and I direct your attention to the paragraph which reads, after the first sentence-- I will read the whole paragraph:

"The chairman then requested a review of the status of the existing contract with the Government and requested as to what personnel would be necessary in order to monitor the remaining contract.

"The chairman further advised that as to the accounting records, preparations are being made for an audit up to date and upon completion thereof the records would be shipped to Brooklyn.

"Mr. Wallach" -- and I think that refers to Mr. Walck --" would be requested to come east to establish the billing procedures from Brooklyn in connection with the contract."

My question, Mr. Anton, is: Did Mr. Walck come east to discuss the billing procedures in connection with the contract?

A. Yes, sir, Mr. Walck and Mr. Leonard came just before Christmas or at that time with substantial amounts of records of American Marc.

I had our accountants, Goldschmidt, Zampino, and Todres, present and we had a conference as to the possibility of moving the accountants to our Brooklyn office.

At this conference it was decided that it would be highly impossible to do that because the DD1195 had to be audited and the audit was still in California and it would be impossible to move those records to Brooklyn.

Therefore, the records were again taken by Mr. Walck with him back to California.

THE COURT: Where are their offices?

Q On this and prior occasions, and I'm referring to board meetings, and I'm referring to the board meeting of October 19, 1971, and the previous board meetings at which Mr. Leonard was in attendance, was the subject of the subcontract and the status of the subcontract reviewed with Mr. Leonard?

A Yes, Mr. Leonard was very disappointed that Teledyne was performing extremely poorly and it was causing us delay and a lot of problems with the Government.

That was the extent of the review.

Q No question was raised as to what the status was, how much funds were remaining from the Government, how much had been billed?

A The answer is absolutely not. It would have been silly to discuss that when Teledyne did not deliver anything and the outlook was that the Government would cancel the contract because Teledyne was incapable of manufacturing.

MR.MITCHELL: I move to strike everything after "no," your Honor.

THE COURT: Granted.

A That is what we discussed.

THE COURT: In this business you just are supposed to answer questions. Don't explain unless you are asked to explain.

Q And that was on or around May 11th or 12th?

A No, it was on May 12th.

Q Prior to your leaving New York to go to California, what information, if any, had been conveyed to you concerning the status of the subcontract negotiations had between Mr. Leonard and the representatives of Teledyne Continental Motors?

A Mr. Leonard called me two or three times during the 10th and 11th of May and advised me that he was conducting negotiations with Teledyne and he asked me to please complete the agreement that we were supposed to have with him to pay him $10,000 upon completion of subcontracting and other conditions, No. 1.

No. 2, he said that the Teledyne people were kind of adamant on wanting at least -- not at least, wanting $350 specifically for each unit or generator set, and that he was negotiating with them as to the percentage that he would receive on the value of the inventory of parts for the contract which were purchased already by American Marc for the second year procurement.

This amount he wanted 85 and if I remember correctly he reported Mr. Rouse was standing on 75 of the cost of those materials.

Q When you say the figure of 355 --

Q On the morning of May 12th, 1972, you met with Mr. Leonard, did you not, prior to meeting with the Teledyne representatives?

A No, sir. I arrived in Los Angeles at a little after twelve-thirty, I picked up my bag and it was after noon, a little after one, when I met Mr. Leonard.

Q When was this that you met Mr. Leonard?

A Mr. Leonard picked me up at the airport.

Q So at this time you did not know what the final results were of Mr. Leonard's negotiations with the Teledyne people, is that correct?

A No, sir.

Q Some time before the purchase order was executed, did you ascertain what the results of the final negotiations were?

A As soon as we met we sat in the car and he told me what the situation was --

Q You are referring to Mr. Leonard when you say "he"?

A Mr. Leonard and myself sat in the car, in Mr. Leonard's car.

Q So you did have a meeting with Mr. Leonard without the presence of the Teledyne people?

A That is what I am just saying, yes. We had a

meeting in the car and he explained to me what he accomplished during the negotiations.

He also told me that the price had changed--

Q Continue. I am going to ask you for specifics.

A I'm sorry?

Q Go ahead.

THE COURT: Go ahead. Tell us exactly what he told you.

In the first place, was he driving the car or was there a chauffeur?

THE WITNESS: No, sir, he was driving the car.

THE COURT: Just you and he in the car?

THE WITNESS: Yes, sir.

THE COURT: How long was the trip?

THE WITNESS: Maybe ten minutes.

THE COURT: From the airport to the office?

THE WITNESS: From the airport to the International Hotel, where we went in the hotel and we picked up Mr. Rouse and Mr. Coleman.

THE COURT: They were Teledyne people, as I recall?

THE WITNESS: Yes.

MR. MITCHELL: That is correct.

THE WITNESS: They were in the International Hotel,

prior to returning to New York?

A Absolutely not.

Q When is the first time that you heard Mr. Walper's name?

A Well, that part I don't know, whetherit was in July of 1972 or maybe even later than that.

Q Did you ever ask Mr. Leonard or obtain information from Mr. Leonard as to how Teledyne had first been informed of the possibility of the subcontract?

A Yes, sir. I told Mr. Leonard that Teledyne had bid lower than the price that we were obtaining from the Government and he should see Hollingsworth and Teledyne. That's how Mr. Leonard knew.

THE COURT: The question was not how Mr. Leonard knew; the question was how did Teledyne find out?

THE WITNESS: Mr. Leonard called them. I told him to call them.

THE COURT: You mean they bid lower to the Government earlier?

THE WITNESS: Well, to explain that, in March of 1971 there was a bid for 2,300 generator sets of the same exact federal number that we were manufacturing. On that bid the Teledyne people and Hollingsworth, a Philadelphia concern, bid respectively, $330 and $350

for those generators.

So my directive to Leonard, because we were working to close the Division, was "See these people."

That's how he got to see the people.

Q When you had your meeting with the representatives from Teledyne Corporation, where did it take place?

A In Mr. Leonard's office, which is American Marc's office, which is about five, six, ten minutes or so drive from the International Airport.

Q And approximately how long did this meeting take place?

A I am sorry?

Q How much time, how long was the meeting?

A Did the meeting last?

Q Yes.

A Approximately an hour or less.

Q And on that occasion, do you recollect whether Mr. Rouse reviewed any documents or looked at any papers or took any notes during the course of the meeting?

Do you recollect now one way or theother?

A I'm trying to see the office.

He was sitting near the desk and I was sitting at the other side of the desk.

I seem to recollect that he may have had a

notebook or something that he was writing in. I'm not positive.

Q To the best of your recollection, who opened up the meeting? What was said at the meeting? Who opened it up?

A Mr. Leonard opened up the meeting and said that he had arrived at an agreement with teledyne with reference to the subcontract or subcontracting to Teledyne the second year procurement.

So I inquired of Mr. Rouse the capabilities of Teledyne to perfrom on the contract, because we had a very substantial amount of trouble with the Army in deliveries, delivery schedules, and we were threatened a few times with cancellations because of lateness in deliveries.

Mr.Rouse showed me some pamphlets and explained to me that the Teledyne people were fully capable of manufacturing the unit in Waterboro, they needed work, and they had Government contracts over there, there was no question that Teledyne would perform.

I told Mr. Rouse at that time that we would offer every possible assistance in any way we could.

Q Was there any discussion at this time during this meeting as to the use of a special account to facilitate attachment by Teledyne Continental Motors if they

pm

THE COURT: I want to get the picture straight. The contract said 30 days?

THE WITNESS: Yes, sir.

THE COUR: You said "Hold on a minute, you can't get paid in 30 days."

THE WITNESS: Right.

THE COURT: The only money you can get paid with is what the government pays us? That is what you said to him?

THE WITNESS: Yes.

THE COURT: What did you say?

THE WITNESS: I said they would get paid at the time when we will have money from the government.

THE COURT: Allright. So you said no money in 30 days, you can't have it in 30 days because you don't have it.

THE WITNESS: Yes, sir.

THE COUR:T And you will get paid at the time the government pays you?

THE WITNESS: And Rouse said, "So you will owe it to me."

THE COURT: That is all?

THE WITNESS: He said, "So you'll owe it to me."

THE COURT: After you sid you could only pay him

THE WITNESS: No, because this is a question of terms which means when we get paid, not if we get paid or how we get paid. It is a question of time.

THE COURT: What did you think? What was going on in your mind when you said "When I get paid by the government, I will pay you"? Did you have in your mind that you would take the government money and pay him did you have in your mind you would take some other money when the government paid you?

THE WITNESS: I had nothing in my mind because I was not negotiating the contract, Mr. Leonard was negotiating the contract and Mr. Leonard informed me that he informed -- this is prior to the meeting -- that he informed Teledyne of our financial condition.

THE COURT: He did? You didn't mention that.

You see, be very careful. I said tell us everything you said in that ten-minute ride and you didn't mention that.

THE WITNESS: I did not say it, Mr. Leonard said to me --

THE COURT: Was there anything else that Mr. Leonard told you in that ten-minute ride that you haven't told us yet?

THE WITNESS: You are correct. Yes,sir, you are

correct.

THE COURT: So he told you that?

THE WITNESS: Yes, sir.

THE COURT: What did he tell you about what he had said to Teledyne about the financial condition?

THE WITNESS: That is all he said, that he explained to Teledyne our financial conditions.

THE COURT: He certainly didn't say, "I explained our financial condition."

Did he say the financial condition was good, bad or indifferent?

THE WITNESS: He knew and I knew that our financial condition was tight. We were losing money.

THE COURT: So he told you, in substance, or he used language which meant to you that he had told Teledyne that your financial condition was tight?

THE WITNESS: Yes.

You see, your Honor, this is not long conversation that took hours.

THE COURT: I understand.

THE WITNESS: This is a ten-minute ride.

THE COURT: I understand.

THE WITNESS: That's it.

Q Mr. Anton, during the portion of the meeting at

of your mind.

THE WITNESS: Yes, sir.

THE COURT: Here these people have been told that your financial situation was tight, you told them that they couldn't get paid on 30 days because you didn't have the money, you told them they would only get paid when you got it from the government.

THE WITNESS:That was related to terms.

THE COURT: What didyou think that they thought --

THE WITNESS: It was related to timing.

THE COURT: Timing?

THE WITNESS: In other words, it is a question of time.

THE COURT: You thought they didn't care if they got paid or not, in substance?

THE WITNESS: Well, I won't put it that way. I would imagine they were thinking when they would get paid, whether it was 30 days or 45 days or 60 days.

THE COURT: Don't you think they were thinking about whether they would get paid?

THE WITNESS: If they did they would have said so. They would have put some conditions, they would have said something. They were absolutely mute.

THE COURT: Of course, their testimony is different, so I have to decide which is right.

THE WITNESS: Obviously it is different.

Q Mr. Anton, you had a meeting in June of 1972 with a Mr. Coleman and Mr. Kotts, did you not?

A Yes, sir.

Q And this meeting was at your offices?

A Yes, sir.

Q What is the subject of the special bank account brought up at this meeting?

THE COURT: Don't call it special bank account, call it --

MR. MITCHELL: It was called special account in the letter, so I am just quoting the way it was called in the letter.

MR.WEINBERGER: Your Honor, at this time I would like to raise an objection for the record, and that is that any of the conversations had in the period of settlement negotiations, your Honor, should not be deemed admissible at all in this trial.

What is at issue here is what the parties new or had in mind on May 10th or 11th, 12th, and any period before that which is within the ambit of the complaint.

I realize that Mr. Mitchell has sought throughout

A Yes.

Q What didthey say with reference to the Bank of America?

A They said there should be money in the Bank of America to pay Teledyne for the generators, and I told them no.

Q And you are sure at the present time your recollection is they did not use the word special account?

A Well, I do not recollect whether they mentioned the special account or not. It doesn't stick in my memory.

Q Did you mention it?

A That, again, I may have mentioned, I may not. I certainly don't remember each word that I said a year or two ago.

Q Were you aware of the special account arrangement on the date of this meeting, on or beforethe date of this meeting?

A I was aware of the Bank of America account, yes, sir.

THE COURT: When did you become aware of that?

THE WITNESS: Of the Bank of America account?

THE COURT: Yes.

THE WITNESS: Oh, down in 1970.

THE COURT: 1970?

THE WITNESS: 1970, yes.

Q To the best of your knowledge, Mr. Anton, did American Marc Division of Eon Corporation or Eon Corporation ever set up a special account in the Bank of America for payment to Teledyne of funds coming from the generator contract?

MR. WEINBERGER: I am going to object to the form of the question, your Honor, unless Mr. Mitchell is prepared to give a specific definition of the word "special account".

THE COURT: What do you know about any arrangements that were made for the money that was to come from the government on this contract after the purchase of it?

THE WITNESS: I know there was no such arrangement.

The truth of the matter is as follows, if I can state it.

THE COURT: All right.

THE WITNESS: In late 1970 American Marc owed very substantial money to a number of contractors and one of the contractors attached the account at United California, so Mr. Leonard removed some of the funds or the remaining funds or whatever it is, I don't know, and deposited it in a Bank of America account near his house and he was the signatory, he could sign checks and also Mr. Walck could sign checks separately on this account at the Bank of America.

Moneys were deposited in the Bank of America account and then were withdrawn in small amounts, $10,000 and $25,000, and then deposited in United California Bank so that the creditors of American Marc knew only of the existence of the United California Bank.

The purpose of the account was make certain there is no preferential treatment of somebody that will come in and grab money and leave the others without funds, so Leonard had control of the amount of funds that was in United California Bank.

That was the only purpose, that I was told, for the existence of this account.

Q Was the account, as you have described it --

A In 1970.

Q Was the account as you have described it, that is, the account starting in 1970, was that discussed with Mr. Rouse and Mr. Coleman in your meeting on May 12th?

A No, sir, not me. No, neither discussed with me or at the meeting with Mr. Leonard.

Q So you did not or it was not communicated to Mr. Rouse and Mr. Coleman in your presence that a Bank of America account existed relating to American Marc?

A I said no about 40 times now.

Q Mr. Anton, I show you Plaintiff's Exhibit 8 in

evidence, being a letter from Mr. Leonard to Mrs. Fern Guy at the Bank of America, dated May 25, 1971, and I refer you to your deposition taken on November 21, 1972, on page 54, lines 4 through 13.

THE COURT: Is that foot note 6 of June Bauman's opinion?

MR. MITCHELL: I think that was the May 25th letter, your Honor.

This letter was marked Defendants' Exhibit D on an earlier deposition.

"Q There was marked as Defendants' Exhibit D for identification a letter from Mr. Leonard to Bank of America, Mrs. Fern Guy, dated May 25, 1971, and I ask you if you have ever seen a copy of this letter (handing).

"A Yes, I have seen it before.

"Q When did you first see a copy of this letter?

"A I don't know.

"Q Was it recently, in the last week, two weeks?

"A No, that is a substantial time ago.

"Q Did you receive a copy of this letter from Mr. Leonard?

"A Well, I would have to check my files. I would think so, yes."

Does this refresh your recollection, Mr. Anton,

that you had seen the letter, Exhibit 8, which you are now referring to, a substantial time ago, that is, substantial with relation to the date of your deposition, which is November 21, 1972?

A Does it refresh my mejory?

Q Yes.

A Yes,sir. This is a letter that you and I found in the file when you came to the place some time in October.

pm Q And that is the first time you had seen that, Mr. Anton?

A Yes, sir.

Q And that was a substantial time ago as you had answered in your depsotiion?

a Yes.

THE COURT: Can I see that deposition?

MR. MITCHELL: This is my copy of it, your Honor (handing).

THE COURT: How long before this deposition is dated --

MR. MITCHELL: November 21, 1972.

THE COURT: -- November 21, 1972 -- when did you first, as you described it, go over your papers with Mr. Mitchell?

THE WITNESS: About a month and a half.

THE COURT: About a month and a half.

If you had seen that letter just a month and a half before this, it seems to me you would't have answered these next questions this way:

"Did you receive a copy of this letter from Mr. Leonard"?

"Well, I would have to check my files. I would think so, yes."

It seems to me if you had just first seen this letter a month ago, you would remember you just seen it a month ago.

A I was never aware of this letter --

THE COURT: It just seems to me if, in fact, that letter had be shown to you just about a month ago, you would remember it at this time. You seem to remember it very clearly now, the fact that you first seen it just a month ago?

THE WITNESS: Yes, sir.

Q I refer you, Mr. Anton, to Plaintiff's Exhibit 6, which is the May 13th letter from Mr. Rouse to Mr. M.J. Leonard, and ask you if you have seen this before (handing).

A I seen it about the same time I saw this one.

Q You are saying you saw this in October, approximately, of 1972 and not before?

A Thereabouts, yes.

Q I refer you to your deposition, Page 53, starting at lines 13:

"Q I show you a copy of what was marked as Defendants' Exhibit C," and I will state that this Exhibit 6 was marked as Defendants' Exhibit C, "and ask you if you have ever seen that letter before?

"A I think so. It is part of our file. I may

have.

"Q When, to the best of your knowledge, did you first see this letter, Mr. Anton?

"A I have no recollection.

"Q No recollection at all?

"A No.

"Q Do you think you saw it on or about the date it bears, May 13, 1971?

"A I have no recollection.

"Q Did you receive a copy of this letter from Mr. Leonard?

"A It is entirely possible. I have no recollection."

Do you now have a recollection?

A No, sir. I want to explain that because you are putting such a connotation to it. Those letters were in a file that were gotten together when you said that you were going to come and we should present to you documents.

Q This was a month before November 21st?

A I don't know if it is a month or two months before, whenever the dates are in the file.

Q You would not have a recollection --

A I got some of the stuff together and I gave it to you. That's it. That's the truth. You can make whatever you like.

Q Mr. Anton, if a communication came into the Eon offices addressed to a board member other than yourself, would it be your general practice to refer it to that board member?

A I can't recall any time when something comes in addressed to a board member and addressed to the corporation.

Q Mr. Anton, if a communication came in addressed to Mr. Waller or someone else--

A I don't recall it ever happened.

Q Would it be your practice, assuming it happened, to refer it to the individual addressed?

A My assumption is that I would have it go forward.

Q You wouldn't stop it from going through?

A Certainly not.

Q Approximately what time, Mr. Anton, what date did Mr. Srybnik join the Eon board of directors? Do you recall the year?

A Mr. Srybnik-- what is the first name?

Q Simon Srybnik.

A 1967 approximately.

Q There came a time, did there not, when Mr. Saul Waller joined the board of directors of Eon Corporation?

A Same time.

Q Did Mr.Leonard report to you in the sense of a vice president reporting to a president of a corporation?

A You have to think that Mr. Leonard was a senior vice president in complete charge of that division.

He did not report to me on his daily occurrences, daily work. He reported to me only on general philosophy.

THE COURT: General what?

THE WITNESS: Philosphy.

THE COURT: Philosphy. All right.

Q Was Mr. Leonard's designation in the Eon annual report "Senior Vice President"?

A No, in the minutes that you will read later you will see that he was a senior vice president.

Q But this was not reflected in the reports submitted to the SEC such as the 10K and the public disclosures made to the stockholders such as annual reports?

A No, sir, he was always referred to as vice president.

Q Mr. Anton, I show you Plaintiff's Exhibit 2 in evidence, being a series of handwritten notes, two-page series of notes, indicating at the top, "Meeting, May 12, 1971," and I will read you Paragraph 1, that's Arabic 1, which states:

"Eon will set up with Bank America to hold funds

received from generator sales to Government in a special account and will pay same to TCM before anyone else. They will confirm this in writing."

I ask you if you have seen this document before, Mr. Anton (handing)?

A I have seen this document at the time that you came to collect documents in the place in 1972, sometime in September, October, I don't remember exactly.

Q Does the--

A I have not seen it before.

Q Does the description of the special account which I have just read to you from, this paragraph, agree with your understanding of what the payment procedure was to pay Teledyne Continental Motors?

A No, sir.

THE COURT: Whose document is that?

MR. MITCHELL: It's been established, your Honor, that this document was a document prepared by Mr. Rouse as a document at the May 12th, 1971 meeting. It was left by him at the American Marc office with Mr. Leonard. It later came from the American Marc files.

MR. WEINBERGER: One second, your Honor, I must object to Mr. Mitchell's categorizations of certain things and representations he makes because I am quite

Q There came a time, did there not, in which two Army payments, that is, payment from the Government to American Marc, at the end of the contract, were utilized, were not put in any special account, but were used for general corporate purposes of Eon Corporation; is that correct?

A Well, I think that the question involves actually two questions. You said the end of the contract, and that is incorrect.

Q When Eon Corporation had reached its maximum progress billing. There were payments, I believe, to refresh your recollection--

A That is also incorrect.

Q -- of $212,000 and $81,000.

Do you recall those two?

A Yes, sir, but it is not at the end of the contract.

Q All right,I stand corrected.

Payments of $212,000 and $81,000 were utilized for payment of other creditors of Eon Corporation, is that correct?

A That is correct.

Q Again referring you to Paragraph 1 that I read you from Plaintiff's Exhibit 2, which described at least one

You say that did not happen?

A That is absolutely untrue.

Q You are absolutely certain, Mr. Anton, that there was no discussion of the special account and the paragraph that I just read you between yourself and Mr. Rouse or Mr. Leonard and Mr. Rouse in your presence on May 12th?

A Absolutely certain, yes, sir.

Q I refer you, starting at page 44 of your deposition, line 19, the same paragraph that I read was read to you, and then the following questions, starting at line 24 --

MR. WEINBERGER: Could you hold on a second, please?

MR. MITCHELL: Page 34, line 19, the same paragraph, and then line 24.

Q Following the reading of the paragraph:

"Q Do you understand TCM means Teledyne Continental Motors?

"A Yes.

"Q Were you present at this meeting of May 12, 1971, when the subject matter of this paragraph 1 was discussed?

"A As I was mentioning before, there was a lot of conversations that may have been discussed while I was there. This was not one of the very important points that

stick in my mind.

"Q You have no present recollection of any such dis-cussion?

"A No."

At the present time, Mr. Anton, can you state that that subject, that Paragraph 1 -- that the subject matter of Paragraph 1 was definitely not discussed in your presence on May 12, 1971?

A All I can tell you is that if it was discussed, I did not hear it and therefore I still say right now that it was not discussed.

Q If you did hear it, you treated it as a minor point?

A Pardon me?

Q If you did hear it, you treated it as a minor point?

MR. WEINBERGER: Objection to the question.

THE COURT: Overruled.

Q Is that a possibility, that you heard it and considered it only a minor point?

A No, sir, because it would contradict the net 30 day term which was very clearly brought up by me.

THE COURT: The answer is no?

THE WITNESS: The answer is no.

MR. MITCHELL: I asked if it refreshed his recollection and he said no and I can't go any further.

THE COURT: He said he didn'thave anything to do with the negotiations, so how could he have gone to California?

Q Subsequent to May 12, 1971, did you report to the board of directors that the subcontract with Teledyne Continental Motors had been entered into?

A You said--

Q After May 12th.

A Yes, I informedthe board of directors' members.

Q You mean you informed the individual members as opposed to informing the board?

A Yes, I think so. I may have done both, I don't know. It would show in the minutes.

Q Were all discussions, Mr. Anton, that were had relating to Eon's business between directors -- did all such communications take place at board of directors meetings?

A No.

Q Were there communications which took place informally, outside formal board meetings?

A Sometimes directors call on the telephone and say "What is new" and I would tell them and sometimes they wouldn't call for a month and I wouldn't tell them. If

I had something specific to tell them, I would call them and say "Look, what do you think of this?"

Q To the best of your knowledge, Mr. Anton, in the minute book of the directors' meetings which you brought with you today are all the meetings represented by typed up copies of meetings -- all the meetings that were held as board meetings?

A I don't think that that would be a true statement. I think that if you examine the books you may see it called for a meeting but no minutes after, maybe one in the whole book, or maybe two, don't know.

Q Do you recall any specific meeting which was called and in which minutes were not subsequently prepared and put in the minute book? Do you recall a specific meeting at which thatoccurred?

A No.

Q Would that be, to the best of yourknowledge, because the meeting did not take place or because nobody typed up the minutes?

A It is very easily possible that the meeting did not take place.

THE COURT: Either one is possible?

THE WITNESS: Yes.

THE COURT: Might have had a meeting and nobody

got around to typing it up or you might ~~have~~ not have had the meeting at all?

THE WITNESS: It is possible.

THE COURT: Either one is possible?

THE WITNESS: Either one is possible.

Q There came a time, Mr. Anton, at which the Bank of America Bank account in California was closed down and the moneys therein transferred to Bankers Trust Company in New York, is that correct?

A That is correct.

Q Do you recall approximately the date on which this transfer took place? To refresh your recollection, was it approximately in February of 1972, early part of 1972?

A No. I would say that the account was closed down sometimes maybe in June or July, maybe even later than that, in '72. I have the stubs, you have the stubs, we could check that and establish the date.

Q At the time that the Bank of American account was closed down, did you personally notify anyone from Teledyne Continental Motors that the money was being transferred to the East Coast?

A I am very sorry, I didn't get that.

Q Did you personally at the time of the transfer

of the funds from Bank of America to Bankers Trust, New York, personally inform anyone from Teledyne Continental Motors that this was taking place?

A Absolutely not.

r 3am6 Q Did you have any discussions with Mr. Leonard in which Mr. Leonard indicated that Teledyne Continental Motors should be informed?

A No, sir.

Q There came a time, did there not, that funds were taken from the Bankers Trust account and put into two smaller Long Island banks, the First National Bank of Glen Head and Nassau County Trust; is that correct?

A That is correct.

Q What was the purpose of transferring the moneys from Bankers Trust to those two Long Island banks?

A The purpose was to inactivate, you could say, the Bankers Trust account because it was an account entitled or the account was American Ma[illegible] Division of Eon Corporation. The signatories were also Mr. Leonard and Mr. Walck besides myself and Mr. Waller.

Q I am referring to the Bankers Trust account in New York.

A Pardon me? That's the Bankers Trust account.

Q Mr. Leonard and Mr. Walck were signatories to the

THE WITNESS: The phisosophy that established the Bank America account in California.

THE COURT: What was that?

THE WITNESS: That is to take a large amount of funds and put them in a bank where a creditor would not know they existed in that bank.

THE COURT: I see.

THE WITNESS: From that depository bank funds were transferred to the every day use bank because of the fact that they were attached.

THE COURT: I see.

Q Is it your statement, Mr. Anton, that that was not a purpose --

THE COURT: He said it was one of the purposes.

Q At the time, Mr. Anton, of the transfer of these funds from Bankers Trust to Nassau County Trust and First National Bank of Glen Head, was Teledyne a creditor of American Marc Division of Eon Corporation?

A Yes, sir.

Q There came a time, did there not, Mr. Anton, when you had a meeting with Mr. Bank and Mr. Letts of Teledyne in approximately June of 1972.

MR. WEINBERGER: Again, your Honor, I raise the same objection, that the settlement or conversations in

1972 are inadmissible and I continue that objection.

THE COURT: Same ruling, same exception.

The answer is yes?

THE WITNESS: Yes, of course.

Q At that meeting did either Mr. Bank or Mr. Letts say words to the effect: What happened to the money in the special account?

A I believe they most likely did, yes.

Q What did you respond to that question?

A I don't remember the exact words.

Q Do you remember the sum and substance of your answer?

A The sum and substance of my answer to the question of special account?

Q Yes.

A It would have been that I had no knolwedge of the special arrangements, not special account, involving the special account.

Q In other words, your answer was: I don't know of any kind of special account in the manner you are talking about?

A You could put it that way.

THE COURT: That in substance is what you said?

THE WITNESS: Yes.

THE COURT: Not those words obviously?

THE WITNESS: Yes, I don't remember the exact words.

Q Did you state to them in sum or in substance during the course of that meeting that the last approximately $300,000 of payments from the government under the Army contract had been offered for purposes other than paying Teledyne, had been used specifically for payment of other debts?

A Since it is the truth, I imagine I said it.

Q Do you recall saying it?

A No, sir.

Q You could have said it and maybe you could not have said it, is that your present recollection?

A Yes. If I would have been asked, I would have said yes.

Q Do you recall during the course of this meeting any argument taking place, any controversy between yourself on one side and the representatives of Teledyne on the other as to the definition of the special account, what its purpose was?

A I --

MR. WEINBERGER: Objection, your Honor. When Mr. Mitchell says representatives, I take it he is

excluding Mr. Rouse from that conversation at not being present at that conversation.

THE COURT: Whoever was there.

MR. MITCHELL: Whoever was there from Teledyne.

MR. WEINBERGER: For the record, can we establish that Mr. Rouse was not one of the people there --

MR. MITCHELL: Mr. Letts and Mr. Bank were the people I stated were there in the beginning.

MR. WEINBERGER: All right. I just wanted the record to be clear that Mr. Rouse was not one of them.

Q I believe there was also a third representative, Mr. Al Herbert was also there from Teledyne?

A We are talking now in 1972?

Q That is correct.

A I have no recollection of that meeting to the detail. I know we had such a meeting.

THE COURT: What is your present recollection of what went on at that meeting?

THE WITNESS: Very, very scant.

THE COURT: All right.

Q In any event, you don't recall any disagreement as to what the purpose of the special account was at that meeting?

A I would say Mr. Letts being there, there must

have been substantial disagreement. Between me and Mr. Letts.

Q Was there a disagreement at this meeting?

A I said I don't recall it.

Q Mr. Anton, you were aware of a sale of certain inventory and tooling by Eon Corporation to Teledyne in 1971, is that correct?

A Yes, sir.

Q To refresh your recollection, it was approximately $169,000 worth of inventory and $25,000 worth of tooling; does that refresh your recollection?

A That is the amount that was received by American Marc, yes. There was no amount fixed then.

THE COURT: No amount what?

THE WITNESS: No amount determined at that meeting.

THE COURT: I see.

Q For the inventory?

A For the inventory.

Q But there was an amount determined for the tooling?

A Yes, sir.

Q Were you aware on May 12, 1971 that American Marc had been progress billing under this Army contract?

A Yes, sir.

Q Were you aware at the time that the financial

THE COURT: The relevance, I assume is that there is some theory Mr. Anton and the corporation knew nothing about the payment to the finder. Mr. Anton denied he ever heard of the finder and there is pretrial testimony from this witness indicating Mr. Anton did know the finder and he is exploring it. Is that the relevance?

MR. MITCHELL: That is correct, your Honor.

THE COURT: Overruled.

Q In connection with this acquisition and the negotiations surrounding this acquisition, did you have occasion to come into contact with a Mr. Gene Walper?

A I did.

Q Could you explain the context of your association with him on this occasion?

A I just met him once. He found American Marc was for sale and related it to James Leonard, who was working for me.

THE COURT: Who hired Mr. Walper?

THE WITNESS: Nobody hired him. He was a free agent.

THE COURT: Who told him you were looking for soembody?

THE WITNESS: Well, our business is buying factories. It was a plant for sale and it came to us

as a normal course of business, another plant for sale.

THE COURT: He knew you were in the business of --

THE WITNESS: Buying and selling plants, in the machinery business.

Q Had you known Mr. Walper prior to this date, in other words, in 1968?

A No.

Q Who, if anybody, paid a finder-s fee to Mr. Walper in connection with his assistance in this acquisition?

A American Marc.

THE COURT: Is that customary, for the buyer to pay the finder?

THE WITNESS: I believe he got commission, perhaps, from both sides, but we agreed to pay him a small commission from our part.

Q By "we," whom do you mean?

A American Marc. He claimed he wasn't getting enough commission from the other side, from the seller, and we paid him from American Marc.

Q When you say "we paid him from American Marc," was this at a time at or subsequent to the date of the acquisition?

A It was after the -- no, we agreed before the

acquisition and paid him after the acquisition.

Q Was there an occasion that you communicated to any of the other principals of Eon Corporation that American Marc was paying a portion of the finder's fee to Mr. Walper subsequent to the acquisition?

A I may have, I may have not. I may have included the total cost of purchase or individually. I don't know what I said.

Q Was this a pooling or was it a purchase treatment?

A I beg your pardon?

Q Was this a pooling or a purchase?

A What do you mean by pooling?

Q How was the acquisition treated on an accounting basis?

A It was an asset purchase.

Q If it was an asset purchase, did there not have to be an allocation of the purchase price to the physical inventory and the valve of the company and inventory purchased?

MR. WEINBERGER: Objection, your Honor. I think this line of questioning certainly is far removed.

THE COURT: It goes to the likelihood of the claim of fraud asserted, the claim of fraud you asserted in this

A You have to ask the question again. I don't understand the question.

THE COURT: American Marc Division I assume had financial statements?

THE WITNESS: Of course.

THE COURT: Did you ever examine them? That is what he wants to know.

THE WITNESS: Of course I did, yes.

THE COURT: All right.

Q How often --

A We made annual reports.

Q Were there interim financial statements generated from the American Marc Division?

A Yes, there were interim financial statements. There had to be.

Q How often were these, quarterly, monthly?

A I can't tell you. I don't know. I don't know that.

Q From time to time did the directors at directors meetings examine or review financial statements from American Marc Division?

A From time to time, yes.

Q Is it fair to state, Mr. Srybnik, that after a financial statement came out of American Mark Division,

THE WITNESS: A private document to Eon. Eon was a public company.

THE COURT: And was available to anybody?

THE WITNESS: To anybody, yes.

THE COURT: All right.

Q There came a time, did there not, when the board of directors were aware of the fact that Mr. Anton was journeying to the West Coast in connection with a proposed subcontract of the Government contract?

A There came a time when Mr. Anton called me and said he is going to the West Coast.

THE COURT: He was going or had gone?

THE WITNESS: Is going.

THE COURT: Is going?

THE WITNESS: Yes, is going to the West Coast to negotiate with some people on a contract.

Q Did he state on theoccasion of that telephone conversation anything to you with respect to Mr. Leonard? Did his name come up, to thebest of your recollection, in that conversation?

A As far as I remember, he said he is going to the West Coast to negotiate a contract with some epople, didn't know whether it was one, two, three or whatever. He was leaving the following day or the same day. I don't remember.

THE WITNESS: We had a meeting at that time. Mr. Anton was supposed to contact all his people or have somebody contact all the people that bid to negotiate with them.

That's what happened.

Q There came a time, did there not, Mr. Srybnik, when Mr. Leonard was a vice president and a director of Eon Corporation?

A Yes.

Q Had Mr.Leonard been introduced to Eon Corporation through youself?

A Yes.

Q And Mr. Leonard had had a prior association, I believe, with you in connection with S & S Machinery Company?

A Yes.

Q Was this the occasion on which you first knew Mr. Leonard, in connection with his employment with S & S Machinery Company?

A I don't understand your question.

THE COURT: How did you first meet Leonard?

THE WITNESS: I first met Leonard with Ward Industries some eyars ago.

Q I take it this is prior to the time when he started working for S & S Machinery?

A Yes.

Q Approximately what time did he begin working for S & S Machinery?

Let me ask the question another way:

How far prior to the time when he came to work for S & S Machinery did you meet him in connection with Ward Industries?

A I met Leonard about twelve, fifteen years ago.

Q Do you know how far this would be prior to the date of his association with S & S Machinery, how many years intervened?

A He was with me about three or four years before that. He worked for S & S Machinery about three or four years before that.

THE COURT: Would you have known him for three or four years before he worked for S & S?

A No, I knew him for fifteen years before he worked for S & S.

Q Did he have a personal relationship as opposed to a business relationship with you; were you social friends?

A It was a business relationship but I was also very friendly with him. He was a very nice gentleman.

Q Returning to your telephone conversation with Mr. Anton, did Mr. Anton in the course of that conversation state to you that he wanted to go to California to negotiate a subcontract with a particular proposed subcontractor?

A I just finished telling you, he called me and said he was going to California.

Q But did he state the purpose was to negotiate a proposed subcontract?

A Yes. He had a few contractors-- I understood he had a few contractors to talk to.

Q Do you recall the date of this phone call in relationship to the day he left for California?

A No.

the subcontract, where there was a corporate necessity for finding out the cash flow situation in American Marc Division, which you stated that there was.

A Yes.

Q Did there come a time in which information was obtained concerning the cash flow?

A Yes, there came a time when we got the information.

Q Did this come by your asking Mr. Anton or did this come by virtue of a cash flow projection which was prepared especially for this need?

A I don't know whether it was specially for the need. I think it would have come normally. But there was a cash flow we got not too long after, where we stand with the company and how much money will be needed.

Q Do you recall seeing that cash flow projection?

A I don't know, but I discussed it with Mr. Anton and he told me where we were and what money was needed.

Q Did Mr. Anton, during the discussions which you mentioned, indicate that American Marc would be $150,000 to $200,000 short in the cash flow sense at the end of the contract?

A Yes, he did.

Q To your knowledge, Mr. Srybnik, did the board

request Mr. Anton to obtain information concerning a cash flow projection for American Marc Division after the subcontract?

In other words, you testified that one was obtained and given to you through Mr. Anton.

Was it at the request of the board that it was obtained?

A I don't know whether it was at the request of the board or not.

Q Or was it normal procedure for such a report to be obtained?

A I think everybody wanted to know where we stand. I don't believe the board had to ask, and Mr. Anton as president of the company wouldhave required it. We always asked questions of Mr. Anton.

Q When Mr. Anton indicated this $150,000 to $200,000 shortage, was this at a board meeting?

A I don't think so.

It was my conversation with Mr. Anton.

Q Do you recall if it was a face-to-face discussion?

A Either face-to-face or telephone discussion. I talked to Mr. Anton by telephone many times and from time to time I would meet him at the plant.

Q Is it your normal course to converse with Mr. Anton concerning problems of Eon Corporation over the telephone as opposed to formal board meetings?

A Over the telephone.

Q Did you have occasion to relay this information that Mr. Anton had given you to any of the directors of the corporation?

A I don't remember whether I did or didn't.

Q Did you have occasion, whether or not you relayed it to them, to discuss it with them?

A Most of my discussions were directly with Mr. Anton.

Q You were aware, were you not, in 1971, that the cash situation of Eon and its divisions was very tight?

A Yes.

Q Did you, or in your presence, any other member of the board of directors have occasion to discuss how Teledyne would be paid by American Marc Division under its sub-contract?

A I did not, never discussed it.

THE COURT: Did you ever hear it discussed?

THE WITNESS: I shouldn't say that. What I understood from Mr. Anton was that Teledyne was going to get paid from American Marc, the same as we got paid from

the Government.

THE COURT: How did you come to that understanding?

THE WITNESS: Sometime, when after Mr. Anton came back, in our discussions it came about.

THE COURT: What did he say to give you that idea?

THE WITNESS: He said words to the effect that Teledyne was being paid on the same basis that we are being paid, American Marc was being paid; when the Government pays us, we are going to pay Teledyne.

Q In other words, what you are saying is, is it not, that Mr. Anton indicated that the funds that would come into American Marc from the government , portions of that would be taken out and paid to Teledyne?

MR. WEINBERGER: I object to that. That is not the testimony --

THE COURT: He is asking him. How do you get testimony except by asking questions?

A What is your question?

MR.WEINBERGER: May we have the question reread, your Honor?

(Question read.)

A That wasn't discussed at all.

THE COURT: I am puzzled by this. What was said exactly?

THE WITNESS: I got the impression that it is a government contract, we get paid from the government and we pay the subcontractors on the same basis.

THE COURT: What do you mean, on the same basis?

THE WITNESS: Well, we purchased a lot of parts and everybody gets paid and the money only comes from one place.

THE COURT: The government?

THE WITNESS: Yes. As we get paid, everybody

gets paid.

THE COURT: As you get paid youtake a portion of it and pay Teledyne?

A If that is what it means, that is what it mens.

THE COURT: You said it didn't. He said that and you said it didn't mean that.

A I didn't understand that on the same basis.

THE COURT: That is what I am trying to get at, because we don't understand each other. He paraphrased the original statement to mean -- what you said was you would get paid on the same basis as the government -- they get paid on the same basis as you and you said that means when you get the money from the government, you pay them?

THE WITNESS: Right.

THE COURT: Then he said does that mean that when you get the money from the government you take a portion of it and pay Teledyne, and you said no.

THE WITNESS: Oh, okay.

THE COURT: I want to know why you said no because it seems to me that is what you meant.

THE WITNESS: What I just said is what I meant. The government paid us, we had people to pay. Part of that money went to everybody. Whoever had to get paid, had to

get paid.

THE COURT: Out of the government funds?

THE WITNESS: Yes.

Q In other words, in the tight money situation that Eon Corporation found itself in there wouldn't have been any other funds with which to pay Teledyne?

A Not so.

Q What would the other funds have been?

A We had two other divisions.

Q I just asked you if the entire Eon Corporation, including all its divisions, was in a tight cash situation, and you answered yes?

A Yes, okay.

Q At that time could Eon Corporation have paid American Marc the amounts due under the subcontract without receiving payments from the government?

MR. WEINBERGER: I think the question reads :Pay to American Marc" and did you mean Teledyne?

MR. MITCHELL: Pay to Teledyne. I am sorry.

A That would be correct, but there were other moneys available in the corporation.

THE COURT: But they were not in cash?

A We had some cash in the other companies.

THE COURT: Then what did you mean --

THE COURT: Mr. Weinberger, will you please sit down. If you have an objection to Mr. Mitchell's qu-stions, make the objection.

MR. WEINBERGER: I do object to the question because Mr. Mitchell fully knows there was additional inventory contract, not the inventory supplied for the furnishing of inventory for generator sets but the product line inventory shipped to Teledyne, and Mr. Mitchell knows that.

THE COURT: Whatever he knows, you can ask questions --

MR. WEINBERGER: To intimate it was the inventory for generator sets is in my judgment misleading Mr. Srybnik and misleading the Court.

THE COURT: Then that is for redirect -- I mean cross, this being his witness.

Q I show you a letter addressed to Mr. Wimon Srybnik, from Mr. M.J. Leonard, dated June 21, 1972, and it is Exhibit 22 in evidence (handing).

(Pause.)

Q Have you seen this letter before?

A Just let me finish reading it, please.

(Pause.)

A Do you want to ask me the question again, please?

Q Have you seen this letter before?

pro-lems were and he would take care of them.

Q Do you have any present understanding, Mr. Srybnik, why this letter was addressed to you personally?

A I don't know why he wrote to me.

Q Did Mr. Leonard report to you directly along the lines of reporting of Eon Corporation?

A No, he didn't.

Q Was this then an unusual event, that he would have directed a communication concerning Eon Corporation to you rather than through normal channels?

A No; there were a few letters addressed to me, maybe four or five letters addressed to me, to Eon, and sometimes Mr. Anton would ship me a copy of it and sometimes we would just discuss it on the phone.

Q Are you referring to letters that were addressed to you as well as to other addressees?

A That is correct.

Q This this letter is directed only to you, is it not?

A Yes, it is.

Q Would this be an unusual circumstance, that a letter from Mr. Leonard was directed only to you, a letter which involved Eon Corporation?

am

Q Did Mr. Leonard send other letters directed to you to your office as opposed to Eon Corporation?

A Never did.

Q How do you know then he would have directed it to your office as opposed to Eon Corporation?

A I say if he wanted to let me know personally, nobody else, he would have shipped this to me. He shipped this to Eon Corporation.

Q You don't know that for a fact, Mr. Leonard never told you that?

A He never told me that.

Q And you never did receive letters addressed to your other office?

A No.

Q I believe you indicated that Mr. Anton called you concerning this letter; is that correct?

A I don't remember whether he called me concerning this particular letter or not, but he might have. If he did, he would tell me what is in it and I said,"What are you going to do about it, Mr. Anton?"

He said, "I am going to take care of it."

That would be the end of my conversation with him. It was his responsibility to take care of it.

THE COURT: What is the status of Mr. Leonard?

transcript 369. That is at the bottom of the page, your Honor.

MR. WEINBERGER: Your Honor, I must withdraw my remark about my memory. It is being called to my attention that there was an identification of the letter by Mr. Leonard.

THE COURT: I am reading it.

I take it that there is no testimony in here that Mr. Leonard ever discussed the letter with Mr. Syrbnik?

MR. MITCHELL: Page 872, your Honor.

THE COURT: That doesn't refer to the letter itself.

MR. MITCHELL: It refers to the subject matter, your Honor.

THE COURT: The subject matter.

MR. MITCHELL: Was there a pending question?

(Record read.)

THE COURT: It seems to me odd that Mr. Anton wouldn't have sent you this letter. Obviously it wasn't intended to inform Mr. Anton of anything.

THE WITNESS: Not really, your Honor, because Anton is president of the company. He was running it. I was a director of the company.

THE COURT: I understand. This letter is obviously intended to give you information which Mr. Anton already

had and which the writer thought you already had.

THE WITNESS: It is possible.

THE COURT: You tell me Mr. Anton sat on it and didn't give it to you?

THE WITNESS: What Mr. Anton used to do was call me or discuss it with me and tell me what he is doing about it.

THE COURT: Look at that letter.

THE WITNESS: I read it.

THE COURT: Isn't that letter to you clearly indicating that the writer, who you say is an old friend of yours, thinks thatyou personally shouldknow what is in the letter?

THE WITNESS: Yes.

THE COURT: Why did Mr. Anton send it to you?

THE WITNESS: I said sometimes he sends me copies of it and sometimes we discussed it on the telephone and he told me the gist of the letter.

THE COURT: But you have no recollection of any of that now?

THE WITNESS: Yes, I said he might have talked to me on the telephone.

THE COURT: Not what hemight have done. He might have talked to me, but he dind't. What did he do?

A Here is what happened.

"What can I do about a letter that a man writes to me?"

He said, "What are you doing about it?"

THE COURT: This letter wasn't asking Mr. Anton to do anything, it was asking your old friend, Mr. Leonard, wanting to get certain information. You tell me Mr. Anton didn't send you the letter?

THE WITNESS: I don't have this in my files.

Q Mr. Srybnik, to refresh your recollection, let me refer you to your deposition on page 41, starting at line 22:

"Q I show you a document which has been previously marked as Plaintiff's Exhibit 5 for identification" -- that is on the deposition, your Honor -- "which purports to be a letter from Mr. Leonard to you dated June 21, 1972 and ask you, sir, if you recall having received this document (handing)?

"A You noticed, this letter was sent to Eon, to my attention. Mr. Anton called me, told me what was in this letter and for all intents and purposes he was taking care of it and then he mailed me a copy of it."

Does this refresh your recollection that Mr Anton mailed you a copy of the letter?

A I don't have a copy of it in my file.

THE COURT: No, that is not the question. You testified there that Mr. Anton mailed you a copy of the letter. Does that refresh your recollection that that is true?

THE WITNESS: Yes. I said sometimes he mailed me copies and sometimes he didn't. If he had discussed it with me, he took care of it.

Q Directing your attention to page 2 of the letter, second and third paragraphs, which read as follows:

"In addition to the above information, I would like to point out to you since I am not sure that you know this for a fact: In April we received a check as a progress payment on our contract from the government for approximately $212,000. This check was deposited into the Eon Corporation account. In accordance with the procedure that Mrs. Anton set up with Miss Retana, an Eon Corporation check which would cause these funds to be paid to Teledyne against our purchase order to them on this contract was made out and mailed to New York for signature and mailing to Teledyne. In late April we received another check from the government for approximately $218,000 in payment from our progress payment request, the same deposit procedure was followed and the check was sent to New York for signature by Eon."

The writer took a short vacation to Europe beginning the last week in April and during this period apparently Eon New York decided not to send these checks to Teledyne. From what I can gather during my absence, Mr. Anton directed that these checks be held. Prior to my return, however, Mr. Anton directedapparently that one of the checks be mailed to Teledyne."

In the course of your telephone conversation with Mr. Anton, did you have occasion to discuss checks received by Eon Corporation as payment from the government not being forwarded to Teledyne? In other words, the subject matter of the portion of the letter which I just read you?

A Do you want to repeat the question to me, please.

Q Did you have occasion to discuss with Mr. Anton in his telephone conversation with you the subject matter of the two paragraphs that I have just read you?
In other words, the failure of Mr. Anton to send on to Teledyne one of the two checks which American Marc had recceived from the government?

A I don't believe I have ever discussed that part with Mr. Anton.

Q Did Mr. Anton inform you that this subject matter was contained in the letter which he had read?

A I don't ever remember him discussing this part

of the letter about payments.

Q So were you unaware at this time that any government check had been withheld from payment to Teledyne by Mr. Anton?

A As far as I know, yes. I was not aware.

Q Did you have occasion to have a telephone conversation with Mr. Leonard at or around this time in which he may have informed you ofthe topics which are covered in the paragraphs I read you?

A I don't believe I talked to Leonard.

Q Mr. Leonard in his deposition, which the Court and opposing counsel have just been referred to, states that he called you on the telephone to discuss the letter with you.

MR. WEINBERGER: Would you specify thepage, please?

THE COURT: 872.

MR. WEINBERGER: I am sorry, your Honor?

THE COURT: 872.

THE WITNESS: I don't remember ever discussing it with him at all.

Q . refer you --

THE COURT: How much longer are you going to be on direct?

MR. MITCHELL: Not to much longer, your Honor. I would hope to finish up by the lunch break.

Let us see if I can.

THE COURT: All right.

Q I refer you, Mr. Srybnik, to page 42 of your deposition, commencing with line 17:

"Q Do you know that Mr. Leonard in his letter" -- and this is referring to Trial Exhibit 22 -- "makes reference to the fact that Eon Corporation received two progress payments in April, one for $212,000 and one for $218,000?

"A Yes."

That was my conversation with him, you say?

Q I am reading you your testimony, the questions and the answers --

A I had a conversation with Leonard.

THE COURT: Listen to the question.

MR. WEINBERGER: May I --

THE COURT: Wait until he gets through.

MR. WEINBERGER: I think the record should be clear that on page 41 of the transcript there is identified to Mr. Srybnik the letter of June 21, 1972. So they have identified it and shown it to him.

THE COURT: He just said that.

MR. WEINBERGER: I just want that to be clear on the record and they proceed to ask a question about it.

THE COURT: It is clear on the record.

He just said it.

Proceed.

Q Continuing:

"Q And that pursuant to directions of Mr.Anton, only one of those checks to cover Teledyne invoices was was mailed to Teledyne and the other was withheld from Teledyne?

"A Yes.

"Q Did you discuss this with Mr. Anton?

"A He mentioned it and said he was taking care of it."

Does that refresh your recollection that you discussed on the telephone with Mr. Anton the fact that one of the two checks had been withheld from payment to Teledyne?

A That is not what I meant.

I meant if he discussed the letter with me -- he said "I received the letter" and whatever he told me,and he's taking care of it.

I don't remember discussing that he did not pay a check or he received the check. I received a letter from Jim and he's taking care of it. If he said he's sending me a copy of it -- sometimes he did and sometimes he didnt. I never got intc payments of checks or --

THE COURT: You said you did. That's what he's pointing out to you.

identification of the letter and then the questioning that follows it (handing).

THE COURT: It says specifically here:

"Q Do you know that Mr. Leonard in this letter makes reference to the fact that Eon Corporation received the two progress payments, one for $212,000 and one for $218,000?

"A Yes.

"Q And that pursuant to the direction of Mr. Anton only one of those checks to cover Teledyne invoices were mailed to Teledyne and the other was withheld from Teledyne?"

That's obvious from the letter.

Then the question is:

"Q Did you discuss this with Mr. Anton?

"A He mentioned it and said he was taking care of it."

What did you mean by that?

THE WITNESS: Here's what I meant. He gave me the gist of the letter. I don't remember exactly what it was at the time. He said he's taking care of it.

THE COURT: Nobody asked you about the gist of the letter. He asked you about two specific facts.

Did Mr. Anton mention it, and you said yes.

THE WITNESS: I don't remember whether he did or did not, your Honor.

THE COURT: All right.

Q Your present recollection, Mr. Srybnik, is you don't recall one way or the other, is that correct?

A I don't.

Q Did there come a time,Mr. Srybnik, that you were made aware of the contents of the two paragraphs which I read you from the Leonard letter?

A Yes.

Q Did you have occasion to discuss with Mr Anton at that time why he had not sent that letter on to you?

MR. WEINBERGER: May we specify when he did become aware of the contents?

THE COURT: When did you become aware of it?

THE WITNESS: I became aware of the contents when all the troubles came out.

THE COURT: That's a big word.

THE WITNESS: When Mr. Letts called me and he said he wanted to meet with us.

MR. WEINBERGER: Would you give a time?

THE WITNESS: I don't remember-- I have to check the dates.

THE COURT: That is good enough.

MR. WEINBERGER: Who is Mr. Letts?

THE WITNESS: Letts is the attorney for Teledyne.

THE COURT: How did you find this letter?

THE WITNESS: In the file. This is where it is, in the files.

THE COURT: Who was there when you found the letter?

THE WITNESS: I have a bunch of letters from the attorney's office.

THE COURT: When did you first discuss it with Mr. Anton?

THE WITNESS: This letter?

THE COURT: Yes.

THE WITNESS: Some time after he received the letter. I don't know exactly when it was.

THE COURT: After you first became aware of the exact contents of the letter, when did you first discuss it with Mr. Anton?

THE WINTESS: I didn't discuss it after this. I had no reason to discuss this letter with him after that. After that we discussed the whole Eon problem. It was more involved than this.

THE COURT: You did not discuss this letter?

THE WITNESS: No. There was a bunch of correspondence that we got together for - everything.

Q Did you ever ascertain, Mr. Srybnik, what happened to the check which Mr. Anton did not forward to Teledyne?

A No, I never ascertained. At that point in time when I met with Mr.Letts and all you attorneys at the office of Feldshuh & Frank, we discussed what happened to Teledyne and where we were at and how much money was available.

I believe, if my memory serves me right, we had $250,000 or $300,000 in the bank, if he wanted to give it to Letts at the time --

He said, "I can't take it from the corporation, I only want to take it from Mr. Srybnik."

Q Suring that particular meeting, Mr. Srybnik, did Mr. Letts or Mr. Bank or any other representative from Teledyne who was there indicate that they thought there was a special account which was set up to safeguard Teledyne's funds?

A Yes.

Q As best you can recollect, what was said during that meeting concerning Teledyne's statement that there was to be a special account?

MR. WEINBERGER: Objection.

THE COURT: Same ruling.

A Basically the talk was that Eon owed Teledyne money and how we were going to pay Teledyne.

Q Did Teledyne say: We thought there was a special account that the money was supposed to be paid into?

a previous meeting on that subject?

THE WITNESS: Not as far as I know. Letts called me at home one night. He says,"I have to meet you at home one night, you owe us money, get everybody together so we can meet."

I called Mr. Anton.

I said,"Mr. Letts called me. He is an attorney for Teledyne. He would like to meet immediately."

So it was the following day or the day after where everybody met.

Q So it is your testimony, Mr. Srybnik, that you never heard of any discussion of a special account prior to the initiation of this lawsuit?

A That's correct.

Q I refer you, Mr. Srybnik, to page 48 of your deposition, starting at line 18:

"Q Prior to the filing of this lawsuit, had you seen any letters or correspondence which referred to a special account at the Bank of America for Teledyne?

"A Not to my recollection, no.

"Mr. Feldshuh: When was this lawsuit started?

"Mr. Lang: I will find that in a second.

"July 30, 1972.

"The Witness: No, I knew about it a week or two

before, when I met with Mr. Letts.

"Q That was the first time you had knowledge of it?

"A Well, I believe so, yes."

Does that refresh your recollection, Mr. Srybnik, that you did discuss the concept of the special account with Mr.Letts at that meeting?

A No, we did not discuss it at that meeting at all.

THE COURT: What did you mean by these answers: "I knew about it a week or two before when I met with Mr. Letts"?

What did you mean by that?

THE WITNESS: I can't tell, your Honor. When I met with Mr. Letts, that was the first time I really knew we had problems. I didn't know about special accounts until after that. We met with Letts again. I don't remember whether we met with Letts once after that. There were two meetings with Letts.

Q Do you remember a meeting with Mr. Letts at which the discussion of a special account took place?

MR. WEINBERGER: Your Honor, may I ask Mr.Mitchell to stipulate for the record that some time prior to the commencement, the legal commencement of this action, as specified in the deposition by Mr. Lang, that prior thereto, your Honor, a copy of the complaint was sent to --

THE COURT: What does that have to do with this?

MR. WEINBERGER: It was in that copy of the complaint that there was reference to the special account.

THE COURT: The witness said "No, I knew about it a week or two before I met with Mr. Letts."

MR. WEINBERGER: It was at that time, your Honor, that a copy of the complaint, or in that time, was sent to the attorneys Feldshuh & Frank, by Mr. Mitchell's firm before the action was commenced.

THE COURT: What does that have to do with "No, I knew about it a week or two before I met with Mr. Letts"?

MR. WEINBERGER: Because he said he knew about it at the time that the lawsuit was started.

THE COURT: The words used here are "I knew about it a week or two before when I met with Mr. Letts."

What did you mean by that?

THE WITNESS: I can't tell you. I never knew about

it before at all.

Q Do you have a recollection of a disagreement between representatives of Eon and representatives of Teldyne, namely, Mr. Letts over the purpose and nature of a special account?

A I don't understand your question.

THE COURT: Let me explain it.

There has been testimony that there was a big argument in your presence as to the purpose and meaning of this so-called special account.

Do you have any recollection of that argument?

THE WITNESS: When did that take place?

THE COURT: In this first meeting, according to the testimony--

THE WITNESS: No, I have no recollection as far as special account at the first meeting at all.

Q You don't have any recollection of a disagreement between Eon people and Teledyne people concerning the nature and purpose of a special account, is that correct?

A As far as I know, there was only one major point that Letts --

THE COURT: Never mind arguing.

Is the answer "no" to the question?

THE WITNESS: Yes.

MR. MITCHELL: No further questions.

THE COURT: What page is this testimony on about negotiations involving Mr. Anton?

MR. VARY: Which negotiations involving Mr. Anton, your Honor?

THE COURT: The original ones, about the purchase by --

MR. VARY: The acquisition of American Marc Division?

THE COURT: Yes.

MR. VARY: This is at 608 of the transcript, your Honor; page 75 of Mr. Srybnik's deposition.

THE COURT: You say here:

"Q Who else was negotiating on Eon's behalf to acquire American Marc, who else besides yourself? "

And your answer was:

"A Anton."

THE WITNESS: I don't remember whether it was Anton or Waller.

THE COURT: I understand that.

You knew, I take it, when you came here, that this was going to be a question. Did you know that?

THE WITNESS: No, your Honor.

THE COURT: Did you ever discuss it with Mr.Anton?

THE WITNESS: Didn't discuss it with him at all.

THE COURT: Didn't discuss it with anybody?

THE WITNESS: No, sir.

THE COURT: Did you ever discuss it with Mr. Waller?

THE WITNESS: No, I didn't.

THE COURT: Between the time this question was asked you back-- when was this deposition taken?

MR. MITCHELL: February 27, 1973.

THE COURT: Between that time and this, did you ever discuss with anybody this question?

THE WITNESS: No, except I reread my deposition.

THE COURT: When did you do that?

THE WITNESS: Last week.

THE COURT: Did you read it before you signed it?

THE WITNESS: I must have, but then I didn't remember whether it was Waller or Anton.

THE COURT: When you read it before you signed it you saw "Anton" there and did it occur to you that you didn't remember whether it was Waller or Anton?

THE WITNESS: I thought it was Anton all the time.

THE COURT: Then what made you think it was Waller?

THE WITNESS: Because there was financial statements to look at in the company and I don't remember whether it was Anton or Waller who was with me.

THE COURT: What brought it to your attention that it might have been Waller rather than Anton and you didn't think of it during the deposition or when you signed it --

THE WITNESS: I was thinking of the other places we bought and was it Waller that went with me or Podell and I don't remember Anton going with me to buy American Marc.

THE COURT: What puzzles me is, a simple qustion was asked and it came out Anton and now the same question is asked--

THE WITNESS: Anton or Waller.

THE COURT: What caused you to rearrange that?

THE WITNESS: I don't remember who was there, even at this moment.

THE COURT: But you didn't discuss it with anybody?

THE WINTESS: No.

THE COURT: On your conversation with Mr. Anton prior to his going down to sign this contract, the subcontract, the purchase, I want you to consider, because what you said gives a different impression than what Mr. Anton said.

You said Mr. Anton told you he was going down to

negotiate a contract?

THE WITNESS: That is correct.

THE COURT: What he told us is he didn't go down to negotiate a contract but to sign a contract that was already negotiated and the only reason he went down was that Leonard insisted he go down to be sure he got his cut.

Try to remember the conversation and see if there is anything that would support that view?

THE WITNESS: As far as I know, he told me he was going down to negotiate a contract.

THE COURT: That is what he told you?

THE WITNESS: Yes.

THE COURT: We will meet at 2:15.

(Luncheon recess)

AFTERNOON SESSION

2:15 p.m.

S I M O N S R Y B N I K, resumed:

THE COURT: You may have the option of cross-examining this witness now or saving it until--

MR.WEINBERGER: It will be a short cross-examination, your Honor.

I don't think it should take too long.

CROSS-EXAMINATION

BY MR. WEINBERGER:

Q You recall Mr. Mitchell questioning you closely about the conversation had at the offices of Feldshuh & Frank with Mr. Letts at a meeting and whether or not the question of the banking arrangements were discussed extensively; do you recall that line of questioning?

A Yes.

Q I would like to read to you--

MR. WEINBERGER: Would your Honor care to have the transcript, the trial transcript?

I am going to read to him from the trial transcript, back in July 1974, the testimony of Mr. Bank.

THE COURT: That is upstairs.

MR. WEINBERGER: Do you have a copy of the transcript for the judge to follow, Mr. Mitchell?

THE COURT: Well, I can listen to you.

Q I would like to read to you what Mr. Bank testified, page 547--

MR. MITCHELL: I seem not to have that transcript with me.

Go ahead.

Q Beginning on page 547:

"I then tried to call Mr. Srybnik at his office and could not reach him on the phone and I did reach Mr. Anton. We set up a meeting. I told Mr. Anton I would like to see Mr. Srybnik and speak with him about this matter and on July 15th or 16th I flew with Mr. J. Spencer Letts, who was vice president and general counsel of Teledyne, Inc., my immediate superior, and Mr. Alan Herbert, of the corporate staff. We flew to New York and met on the 17th day of July, 1971, in the A.M., I believe at Eon's facilites in Brooklyn.

"Q Incidentally, is Mr. Letts still in the employ of Teledyne, Inc.?

"A No, he is not."

THE COURT: This is direct examination?

MR. WEINBERGER: Yes, your Honor.

"Q When, if you recollect, did he terminate his employment and relationship with Teledyne?

"A I believe he terminated his employment in January of 1973.

"Q You say a meeting thereafter took place at the offices of Eon Corporation, is that correct?

"A Yes, that is correct.

"Q What was the date of this meeting?

"A July 17, 1972.

"Q Approximately what time in the day?

"A It was the A.M., in the morning.

"Q Who were the people in attendance at this meeting?

"A Myself, Spencer Letts, Alan Herbert, Nicholas Anton, James Leonard and Odif Podell."

"THE COURT: Not Mr. Srybnick?

"The Witness: No, sir.

"The Court: Who was the other fellow?

"The Witness: Odif Podell is the chairman of the board of Eon Corporation, I believe.

"The Court: And who else?

"The Witness: Mr. Leonard and Mr. Herbert of our corporate staff.

"Q Mr. Bank, I may not have heard you correctly but I believe you said July 1971.

"A This happened in 1972; if I said that, I stand

corrected.

"Q And approximately how long did this meeting last?

"A It might have lasted an hour, hour and a half.

"Q To the best of your recollection, what was said during the course of this meeting?

"Mr. Feldshuh: Short voir dire requested, your Honor, for the same reason as before.

"The Court: You have the exception.

"Mr. Feldshuh: Same exception, your Honor.

"A We waled in and I asked where Mr. Srybnik was.

"Q Who is 'we'?

"A Myself, Mr.Letts and Mr. Herbert and either myself or Spencer Letts, probably me, I was doing more of the talking. I asked where Mr. Srybnik was and we were told Mr. Srybnik was not available today but that he had authorized Mr. Anton to conduct discussions with us and then the other gentlemen were introduced to us.

"I had not met Mr. Leonard before nor had I met Mr. Podell. We met everyone at that point."

MR. WEINBERGER: At this point, your Honor, there is an extensive discussion as to what took place at the meeting and I believe I can make a fair representation that at this meeting Mr. Bank testified there was some discussion about this so-called bank account arrangement;

for whatever the transcript speaks about it.

Now I refer your Honor to page 556 of the same transcript, on the direct testimony of Mr. Bank:

Was there a meeting held the next day?

"A July 18, in the A.M., we had a meeting at the law offices of Feldshuh & Frank.

"In attendance were the same people that had attended the prior meeting, with the addition of, I think, Martin Frank, Esquire and Simon Srybnik.

"Mr. Feldshuh: Sidney Feldshuh was not there.

"The Witness: He was not there.

"Q Were there any discussions concerning payment or non-payment under the subcontract at this meeting?

"The Court: You have the same exception.

"Mr. Feldshuh: Thank you, sir.

"A Yes, we started out- - I told Mr. Srybnik we were pleased to see him in attendance and I said that yesterday Mr. Anton had indicated that the funds had been diverted from our trust account at the direction and authorization of the board and consequently we were now looking at the board for reimbursement.

"Q And again this was your language?

"A I said this to Mr. Srybnik.

"The Court: You used the word 'diverted' and

'trust'.

"The Witness: Yes. This is all my speaking.

"Mr. Srybnik didn't say anything, or I don't recall the response, but Mr. Frank said this was sort of backward thinking and if we want to progress in the matter let's look to the future and see what we can resolve.

"Then he again went into a discussion similar to the discussion that Mr. Anton had delivered and Mr. Anton again participated, trying to offer some sort of equity participation in the company.

"At this point Mr. Letts, who is not too animated, did get upset and said 'We have continued to tellyou, we are not interested in that; if that is all we can talk about, we have nothing to talk about.'

"Q Was there any further discussion on that date concerning the special bank account or use of funds or anything like that?

"A No. Other than my initial statement, we sort of discontinued that line, they were not very responsive to that."

Q Mr. Srybnik, I read to you Mr. Bank's testimony.

Does that refresh your recollection to having any extensive discussion at the meeting that you held with Mr. Letts and Mr. Bank on a conversation about special bank

or not?

A As I said before, Mr.Letts wanted to talk about moneys, how he is going to get money from me, not from the corporation.

THE COURT: Did he tell you on what theory he was going to get money from you?

THE WITNESS: Yes. Well-- I don't remember what theory. He said "I was the only one who had money and the only one he was going to talk to."

THE COURT: Did he tell you what theory he was going to talk to you about?

THE WITNESS: Not at that discussion.

THE COURT: Did you ask him on what theory he was going to get money from you?

MR. WEINBERGER: Your Honor, may I say it was understood by all parties, including the defendants, that there was a breach of contract at that time.

THE COURT: He has testified that a lawyer told him he was going to get money from him personally,and I am asking him what he said in response to that.

Ordinarily, a member of a board of directors is not liable for the contract defaults of a corporation.

I take it that you know that, that ordinarily a member of a board of directors is not liable personally

for the breach of a contract by his corporation.

THE WITNESS: That's right.

THE COURT: And I take it you knew it then?

THE WITNESS: Yes.

tlb pm

THE COURT: So when he said "I am going to get money from you personally," what did you say?

THE WITNESS: At that time we discussed that the corporation had some money in the -- I think we had -- I don't know whether I said it but somebody said it -- I think maybe Anton or the attorney said it, that the corporation had some money into it and we would be happy to give it to him.

THE COURT: I assume he knew the corporation was going banrkupt.

THE WITNESS: He didn't want money from anybody except me.

THE COURT: I assume because the corporation was going bankrupt?

MR. WEINBERGER: May I ask a question, your Honor?

THE COURT: No, please. I am trying to find out what you said. It must have been a shock to you when he said "I want money from you personally"?

THE WITNESS: Yes.

THE COURT: And I would think you would ask him on what theory did he think he was going to get it from you personally. Did you ask him anything like that?

THE WITNESS: No.

Q Did Mr. Letts indicate to you why he didn't want to take any money from the corporation?

A Yes.

Q What did he say?

A He said if he takes it from the corporation, the corporation doesn't have any money and if it goes into bankruptcy, he will have to return the money.

THE COURT: Well, that is what I assumed.

But I am still kind of surprised that you didn't raise with him the question of how he thought he was going to get it out of your pocket.

THE WITNESS: I didn't ask him.

THE COURT: You didn't care?

THE WITNESS: Not that I didn't care, I just didn't ask him.

THE COURT: The whole purpose of the meeting was to get money out of you and you never discussed how he was going to do it?

THE WITNESS: That is correct.

Q What was your understanding of the purpose of the meeting?

THE COURT: He told us, to get money out of him and not the corporation.

Q Did you understand that before you went to the

meeting?

A No.

THE COURT: But you understood it after you had been there a very short time?

THE WITNESS: That is right. After the meeting, Letts got up and walked out.

THE COURT: That last testimony kind of shoots out one of Judge Bauman's footnotes, does it?

MR. WEINBERGER: I don't recall the footnote you have in mind, your Honor.

THE COURT: Judge Bauman points out thatyou take the position that this lawsuit was designed to curcumvent the bankruptcy.

MR.WEINBERGER: You are one hundred per cent right, your Honor. There is no question that the plaintiffs and their attorneys anticipated the bankruptcy here long before the lawsuit was started. I agree one hundred percent.

THE COURT: Off the record.

(Discussion off the record.)

Q Mr. Srybnik, can you tell the Court, do you receive any salary or money for being a director of Eon Corporation?

A No, I don't.

Q Do you ever take any expenses for anything you do

on behalf of Eon Corporation? Do you draw any moneys for expenses?

A None at all.

Q Do you receive or derive any income for being a director of Eon Corporation?

A I don't.

THE COURT: Is Eon Corporation an eleemosynary institution?

THE WITNESS: No.

THE COURT: Then why are you involved in it?

THE WITNESS: Originally I got involved in it because they had four Nobel prize winners in the company who developed a piece of cancer detecing equipment and I was interested in that end of the business, to create a better piece of equipment.

THE COURT: You were not interested in money at all?

THE WITNESS: Oh, yes, I am always interested in money.

THE COURT: The gist of this question is that you had no financial interest in it?

THE WITNESS: Yes, I did, but I never took any mone out of it.

THE COURT: What was your financial interest?

THE WITNESS: I was a stockholder.

THE COURT: What percentage of stock did you have?

THE WITNESS: At what point in time?

MR. WEINBERGER: It is conceded he is a substantial sockholder of the corporation, your Honor. That is a matter of record and there is no issue on that at all.

Q What do you do? I would like you to tell the Judge your main occupation and what are your business activities? are you an employee?

A No -- well, in a way, yes.

THE COURT: Are you planning to call him as a witness?

MR. WEINBERGER: No. I would like to finish up with him in this regard, your Honor, and give your Honor an idea of who Mr. Srybnik is.

THE WITNESS: I am in the machinery business. I manufacture cement machinery, processing machinery, mining machinery, machine tools. We have a used department, we buy and sell used machinery and we buy, sell and liquidate metal working plants.

Q What company is that?

A S&S Machinery.

Q Where is that located?

A In Brooklyn.

Q In addition to S&S Machinery, are you involved in any other companies?

A Yes.

Q Tell his Honor what you are involved in?

A I am chairman of the board of a public company known as Life Sciences, whose business is cancer research.

Q Where is that company located?

THE COURT: Is Mr. Leonard still with S&S?

THE WITNESS: No, he is not.

A That company is located in St. Petersburg, Florida, and we are opening up another laboratory in La Jolla, California.

Q About how much business does that company do, Life Sciences?

A In volume?

Q In money.

A Life Sciences owns two hospitals in New York and we do about two million dollars worth of research a year.

THE COURT: What hospitals?

THE WITNESS: Park East and Park WEst.

Q Are you involved in any other business enterprises?

A Yes.

Q What is that, sir?

A Kerns, K-e-r-n-s, Manufacturing. We make jet engine components.

Q What is your involvement there?

A I am chairman of the board of Kerns Manufacturing. We import machine tools from abroad, from many countries, and manufacture them abroad.

Q Do you have any other business involvements?

A Yes. I am involved in the real estate business.

Q And where is that?

A Different parts of the country.

Q Would you tell the Court, Mr. Srybnik, about what portion of your time was spent in connection with Eon Corporation enterprise?

A Maybe one per cent.

Q How would you describe your involvement in terms of your activities with Eon Corporation, what would you do?

A I would only answer questions to Mr. Anton when they are asked of me.

Q Did you involve yourself in the daily operations of Eon Corporation, as to how they paid their bills, what the mechanics of the every day affairs of the corporation

were?

A Not at all.

Q Incidentally, Eon Corporation is made up of how many subsidiaries?

A We had Eon, Par Metal, Dulcimiter, Electrometer and American Marc.

Q So that if 1 per cent of your time was given to Eon Corporation, what percentage of your time was allocated to any of the subsidiaries? Can you give an evaluati

A Very little.

Q You spike about participating in an acquisitio of the American Marc Division for the Eon Corporation?

A Yes.

Q At the time do you recall who the Americ Division was acquired from?

A Pike Corporation.

Q You actively handled the negotiati you not?

A Yes, I did.

Q And you testified, I believe, that M as a finder and called that business opportunity to yo attention?

A Yes.

Q At the time that that happened, Mr. Walper was out in California?

A Yes.

Q Was he employed by you at that time?

A No.

Q How long did you know Mr. Wa-per? Had you known him at that time?

A First time I met him.

Q Then you entered into these negoations. Did you have any negotiations about paying Mr. Walper a finder's fee?

A I did.

Q Who were the negotiations with?

A With Pike and Walper -- with the people we bought it from and Mr. Walper.

Q Between the three of you, did you all arrive at afigure for paying -- did American Marc pay all of Mr. Walper's finder's fee?

A No.

Q In other words, how did you, American Marc and the other organization arrive at the payment of Mr. Walper's fee?

A In our negotiations for a price for the purchase of the assets, Walper's fee came into being and we paid part of it and they paid part of it.

Q Did that effect the purchase price in any way?

A Either they paid the total part or we paid our part and they paid their part or we paid our part and they paid their part.

Q Did there come a time, Mr. Srybnik, that Mr. Walper was hired by S&S Machinery Company?

A Yes.

Q By the way, that is not the S&S Machinery Company here in Brookly, is it?

A No, S&S Machinery Company in California.

Q What kind of a company is that?

A Corporation that buys and sells machinery and buys plants and liquidates plants.

Q Are you actively involved in that operation out in California?

A Yes, sir.

Q I see.

How did Mr. Walper come to be hired by S&S Machinery Company in California?

A Well, he was a commission man finding deals and able to sell machinery so we hired him.

Q I see.

THE COURT: When was that?

THE WITNESS: 1971.

Q When in that year?

A The beginning of the year.

Q I see.

Do you know how much he was getting paid?

A Presently I don't remember.

Q Do you have a rough approximate idea?

A 250 or $300 a week.

Q You were advised of this, weren't you, in the context of this lawsuit?

A Yes.

Q Okay.

Was he a full-time employee or part-time employee?

A Full-time employee.

Q What was Mr. Walper's function as a full-time employee? What were his duties?

A Sell machinery and find businds for sale.

Q I see.

A That we can buy.

Q All right.

How long did he remain an employee of S&S out there?

A About a year.

Q Whenwas his employment terminated?

A The end of '71.

Q I see.

Did there come a time, Mr. Srybnik, that you learned that Mr. Walper received an emolument, however we shall describe it in this lawsuit, that he received moneys, if you will, in connection with the Teledyne American Marc contract?

A Yes.

Q When did you first learn that?

A During this lawsuit.

Q How did you come to learn that?

A One of Teledyne's people in this testimony revealed it.

Q I see.

Did youhave any idea that Mr. Walper got any kind of moneys like that in connection with an American Marc transaction with Teledyne?

A No.

Q Would you have approved such an arrangement?

A No way.

Q Why not?

A My oen employee getting commission on something that was internal?

THE COURT: What?

Mr. Srybnik obviously would not be involved in any of those matters and Mr. Anton said he did not know even of the Mrs. Guy letter until long after the episode had taken place.

I believe he said that when it came to his attention, when Mr. Mitchell had perused through the documents of American Marc --

THE COURT: His testimony was not very persuasive on that point.

MR. WEINBERGER: That is important that at least that is the position of the individual directors.

Your Honor, it troubled me very much that your Honor postured it in terms of credibility.

Last night we went back to the office and we scrutinized very carefully the deposition of Mr. Leonard, because if there is anyone that has some understanding of what went on in California, it has to be Mr. Leonard --

THE COURT: Or Mr. Rouse.

MR. WEINBERGER: Mr. Rouse has testified and I don't think that his testimony should be given great credibility either--

THE COURT: I find him quite convincing.

MR. WEINBERGER: I must submit, your Honor, on that point, when Mr.Rouse tries to tell your Honor that

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THE COURT: That is what we are here to determine, but the parties understood that each check coming from the government would not by any hypothesis belong all together with Teledyne, because Eon was making a profit on this deal and everybody understood that.

MR.WEINBERGER: Exactly, your Honor, but what is not understood in the concept of your premise is whether Mr. Leonard in his fashioning this arrangement had in mind the concept of being a fiduciary of --

THE COURT: If you would give me some other theory of why -- nobody has come up with a rational theory on the defense side of what the devil this is supposed to mean.

MR. WEINBERGER: Let's see what Mr. Leonard said, your Honor, because he may be wrong, he may not have had a full understanding of what he is doing as Mr. Rouse may not have had a full understanding of what he was doing, and the issue presented to us is that whether the businessmen in effect created that kind of a fiduciary relationship between them and I submit, your Honor, that under the entire facts of this case I cannot conceive that Mr. Rouse or his associates were looking upon Eon or any of the people in Eon as their fiduciary, it was strictly a debtor-creditor relationship.

for that check to clear saying to myself 'What the devil is going to happen, will the thing clear or will it bounce?'"

Thereupon, Leonard says, "I am going to give you not my check but when I get the money from the government I will instruct the bank to give you the bank's check, a cashier's check."

THE COURT: But that is not a very valuable agreement unless there is an agreement to put the money into the bank.

MR. FELDSHUH: The money goes into the bank and the instruction comes out as does appear all the time as long as Leonard is still an officer, an employee of the company, and the instruction comes not from TCM but Mr. Leonard.

THE COURT: Of course. It has to come from the trustee.

MR. FELDSHUH: But, you see, your Honor, you are trying to say to yourself, "I am now going to spread this agreement beyond the cashier check concept".

THE COURT: But the cashier check is no good unless there is money there to cash the check.

MR. FELDSHUH: Once the cashier's check is issued-

THE COURT: In other words, this is a year or a year and a half deal and all this arrangement is so each time

THE COURT: I know you are trying to devise it and I ask you to come up with a rational explanation for this arrangement.

MR. FELDSHUH: Businessmen know the difference between a cashier's check --

THE COURT: Stop telling me the difference between a cashier's check and a bounced check. I am not an idiot. I am asking the difference between a bounced check and no check at all.

MR.FELDSHUH: From my business experience, I would rather have no check at all than a bounced check.

THE COURT: Why? With a bounced check you have a cause of action, with no check at all, you have nothing.

MR. FELDSHUH: Well, I sold the merchandise. Am I entitled to get paid?

THE COURT: Yes. The merchandise is gone, everything is gone, what difference does it make whether you get a bounced check or no check at all?

MR.FELDSHUH: The difference is this: Based upon the check I receive, I am led down the primrose path that I am getting paid.

THE COURT: And in two days you know you are not.

MR. FELDSHUH: Ten days.

THE COURT: It doesn't take ten days -- all right,

ten days. So all this arrangement was to avoid Teledyne officers having the emotional disturbance of ten days. You are being led down the primrose path, what harm does it to do you?

MR. FELDSHUH: All right. I say to you, your Honor, it is from the point of view of whether they are being paid or not --

THE COURT: I may be in error. I am not in doubt. That doesn't make any sense to me.

MR. FELDSHUH: I respectfully submit, your Honor, as Leonard goes through his deposition on --

THE COURT: I am waiting to hear from his deposition.

MR. FELDSHUH: Okay.

THE COURT: If Leonard doesn't make any more sense than you just made on this issue, I am not going to be impressed.

MR. FELDSHUH: As long as your Honor does not ignore the very important business fact that we are talking about payment by cashier's check.

THE COURT: Don't argue with me the difference between a cashier's check and a bounced check. That difference to me is clear. Here we are in January talking about a check that is going to be delivered in December, and

what I am interested in is getting money, not how I get it.

MR. FELDSHUH: May I alsi, appreciating your Honor's comment --

THE COURT: I am dealing with a defunct, possibly defunct organization according to D&B. I am not worried about the ten days emotional disturbance ofhaving a bounced check. I want money. That iswhat this arrangement is designed to produce.

MR. FELDSHUH: Right. When you are a creditor and you are talking to a debtor in those terms, you say to the debtor: Look, I want money and I am not going to take your check, I am going to take a cashier's check.

THE COURT: All right.

MR. FELDSHUH: That you certainly say.

THE COURT: That you certainly say at that moment. When you are talking ten months down the thing, you are making an arrangement where the cashier's check will come. Under your arrangement there is no assurance he will get any check.

MR. FELDSHUH: We are talking about the intention of the parties and the understanding on May 12, 1971.

THE COURT: That is right. The parties knew that on December 15th there would be a check, say, of $10,000

coming from the government. The parties were interested in getting part of that check to Teledyne. That is the only thing the parties were interested in. There is no sense in the arrangement unless the arrangement had that effect. Your arrangement doesn't have that effect at all.

MR. FELDSHUH: All right.

THE COURT: Your suggestion.

MR. FELDSHUH: The fact of the matter is, your Honor, the parties also specified 30 days --

THE COURT: That was eliminated.

MR. FELDSHUH: Which was nonsense, actually nonsense, if you had the trust. They didn't have to specify any date. All they had to do was say: When you get the check, this is what is going to happen.

THE COURT: That is exactly what they changed the 30 days to. That is exactly Mr. Anton's testimony, cancel out the 30 days and change it to when we get the check, you are going to get it. Then it seems to me Mr. Rouse said, how do I know I am going to get it? This is what they said.

MR. FELDSHUH: All right. How do you know you are going to get it? Because we are going to tell the bank to issue a cashier's check. we are not going to send you our check.

everybody else, I think we wouldn't all be here."

I could go on and read further, your Honor. Rather than do that, I just specifically tell you this is what Leonard said.

THE COURT: It makes no more sense when Mr. Leonard says it than when you say it.

MR. WEINBERGER: May I continue, your Honor, to say what Mr. Leonard's belief was --

THE COURT: What Mr. Leonard said he believed, that is entirely different.

MR. FELDSHUH: Except he was the party, your Honor.

THE COURT: What?

MR. FELDSHUH: He was the party who was acting on behalf of Eon.

THE COURT: I am not bound by what he says he believed some months later when it makes no sense.

MR. FELDSHUH: How much less so, your Honor, are you bound by what Rouse says?

THE COURT: I am bound by what no one says. I have the duty to find outwhat makes sense and what probably happened.

I have a man Rouse, who seemed to me to be a reasonable witness, who testified what he believed, and what

he seemed to believe seems to me to make sense.

Mr. Anton gets up here and tells an absolutely ridiculous story. Pardon me, Mr. Anton . Therefore, I am left with Mr. Rouse's testimony.

MR. WEINBERGER: Your Honor --

THE COURT: Mr. Anton says he told us we are broke, we got no money to pay. They didn't. That's the substance of Mr. Anton's testimony.

MR. FELDSHUH: Out of this, may it please the Court, and with all due deference, your Honor, I take it that is the basis for your Honor inferring a trust arrangement?

THE COURT: Not the bais. The basis, the documents, what was said about them and the fact that no reasonabl explanation other than the trust is being presented.

MR. WEINBERGER: May I continue at least on the vein of what Mr. Leonard testified to?

No. 1, what he said at the time of his deposition was in his mind, his understanding. He was asked, if your Honor would care to read along with me, page 36. Let us start at the bottom of page 35, your Honor, line 24. Question submitted to him is:

"Q With respect to --"

THE COURT: Wait a minute.

MR. WEINBERGER: Page 35, line 24, your Honor. Mr. Leonard's transcript of Mr. Leonard's deposition.

"Q With respect to this Bank of America account, I don't want to put words in your mojth, but do I understand correctly that the idea of the Bank of America account was to assure Teledyne that it would be paid under the subcontract?

"A Well, it was their request that we have an account where moneys would be deposited and that we would direct that the moneys be paid out of the account.

"Q To Teledyne?

"A Yes.

"Q Was it also this request that the moneys not be paid out to anyone else until Teledyne invoices had been satisfied?

"A No.

"Q What was the protection that Teledyne was going to receive from this bank account if other creditors could be paid out of the same account?"

Then I made an objection. Then there is a colloquy. The question is repeated on this line 21.

"Q What was the protection that Teledyne was going to receive from this bank account if other creditors could be paid out of the same account?

"THE WITNESS: I don't know."

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THE COURT: What line is this?

MR. WEINBERGER: That is line 25 on page 36, your Honor.

"Q So you never understood what protection they were going to get; is that correct?

"A My understanding of the bank account and the reason it was set up and the way it performed was exactly as described in the documents that you have and Eon has, that the checks when they came in were to be deposited. Those were then to be identified with invoices that were outstanding from Teledyne and the payments would be made in accordance with those amounts that were due to Teledyne out of that account and that is the way that it operated."

Now, your Honor, at this point le me just say what Mr. Leonard is even saying here.

THE COURT: What he is saying there is to me a trust. Those words are to me a trust.

MR. WEINBERGER: May I continue then, sir?

THE COURT: Yes.

MR. WEINBERGER: "Q Did you instruct the Bank of America or, to your knowledge, did anyone else from Eon instruct the Bank of America not to pay out any sums from that account until the Teledyne invoices had been paid?

"A No, that was not ever set up that way and it

wasn't requested that way."

MR.MITCHELL: The interesting part is just coming up your Honor.

MR. WEINBERGER: All right.

"Q Did you discuss the special account" -- if you want me to read that, if that is important -- "Did you discuss the special account arrangement with Eon and Teledyne with anyone else from Eon?

"A Yes.

"Q With who?

"A With the board as a -- with Mr. Anton as part of the agreement. They were familiar with the agreement and you fellows had requested and that was the disclosure.

"Q When did you discuss this bank arrangement with the board?

"A I don't think I said I discussed it with the board. I said in answer to your question, were they advised of the Bank of America that I assume that Anton and the board reviewed the proposed contract."

THE COURT: "Anton was here, he went over the thing and he knew before he came out that it was one of the provisions of the proposed agreement."

not have have conceived at the time, May 12, 1971, of what we are all talking about today.

Your Honor, I think that it is clear that Mr. Leonard, as a matter of record, doesn't say that he told the board of directors --

THE COURT: Don't argue about what I have said or agree with -- I think the only evidence, and I will let Mr. Mitchell try to dissuade me, but don't you try to persuade me-- I think the only evidence against Mr. Anton is the evidence of Rouse and Coleman, and I must say what effect unbelievable denials would have -- I will tell you what I mean by unbelievable denials.

Mr. Anton on deposition said he doesn't know when he first saw those crucial documents, he may have seen them at the time and he may not have.

He now says he remembers very clearly seeing them for the first time a month, more or less, prior to his deposition.

That just doesn't make any sense.

Therefore, I have to deduce that he is not being frank with me. What I can infer from that I don't know, it is not positive evidence, but I assume will lead me to give greater strength to any ambiguity in the evidence of the two people who are present.

MR. WEINBERGER: My response, your Honor, is that when Mr. Anton testified at his deposition that he did not recall seeing those documents, I believe, your Honor, that it has to be read in the light that those documents were --

THE COURT: I will tell you what I mean and if I am wrong, you can correct me.

These documents were certainly startling documents in the light of this lawsuit, right?

MR.WEINBERGER: Your Honor, when you say startling, in terms of the analysis and the interpretations to be given to them?

THE COURT: They were important documents. If they had come as a surprise to him, nothing what the lawsuit was about, and just a month before he had seen the documents for the first time a month later he would remember that fact and he wouldn't say he couldn't remember, but he would be having seen them a month before and that would be fastened in his memory. Therefore, that was not the first time he saw them. That is clear to me. It is clear to me he was not telling me the truth.

That is my analysis and I am giving it to you not to offend Mr. Anton but to tell you --

MR.WEINBERGER: I think your Honor is quite candid and we all have the failties, your Honor, of when

A Pardon me?

Q You are salaried, are you not?

A Yes, sir.

Q What is your income from Eon Corporation?

THE COURT: As of 1971.

A 1971, $31,200 a year.

Q Was that your salary, sir?

A The salary was $30,000 and $1200 for use of my car.

Q If you incurred any business expense, were you reimbursed by the corporation?

A Major business expenses, yes.

Q You also are a substantial stockholder, are you not, of Eon Corporation?

A Mr. Weinberger, could you move a little forward, please?

THE COURT: He wants to know what percentage of Eon stock you own.

THE WITNESS: I own personally a little less than three per cent.

THE COURT: When you say personally, do you have a trust?

A Yes, all together, my family, we have 150,000 shares.

THE COURT: And how many shares are outstanding?

THE WITNESS: At present, 5,838,000.

THE COURT: In 1971?

THE WITNESS: The same.

THE COURT: Same thing?

THE WITNESS: Yes.

THE COURT: You and your family own how many shares?

THE WITNESS: 150,000 shares.

THE COURT: What is the percentage?

THE WITNESS: Three.

THE COURT: You and your family, all together.

Q Since May 12, 1971, did you get any dividends or income from your stockholdings, you or your family or whoever it --

A No, sir.

THE COURT: Did you have an expense account for lunches, and that kind of thing?

THE WITNESS: Well, I don't do that, but the people who do, put it in their expenses. When I do travel, for instance, to American Marc, I put in a sheet of expenses. If I go out to see an attorney or a doctor in a hospital, I don't put in any expenses.

Q Did Mr. Waller get a salary or any income by

reason of being a director of the corporation?

A Can you repeat that?

MR. WEINBERGER: Will you read the question, Mr. Reporter?

(Question read.)

THE COURT: Did Mr. Waller get anything?

THE WITNESS: No, sir.

THE COURT: No salary or expense account or anything?

THE WITNESS: No, nothing at all.

Q Was he reimbursed for any expenses he might have incurred?

A No, sir.

Q Mr. Waller is a stockholder, is he not, of the corporation?

A Yes, sir, he's a stockholder.

Q Do you have any understanding or knowledge as to what percentage he may own or the number of shares he may own in the corporation?

THE COURT: If that is relevant, don't you have a table of what percentages --

MR. WEINBERGER: I am stipulating for the record that he is a minor holder of stock. He may have a few thousand shares, if that much.

MR. MITCHELL: This is all set forth, your Honor, in the 10-K statements which are part of the record.

MR. WEINBERGER: Will Mr. Mitchell stipulate for the record, your Honor, so we don't burden the Court having to read 10-Ks that Mr. Waller and Mr. Podell albeit stockholders, were not major stockholders of the company and had a few thousand shares? Your Honor, my understanding of the record, and I will ask that Mr. Mitchell stipulate, that Mr. Waller I think owns 99,000 shares. I stand corrected as to the few thousand, but it is a relatively minor

proportion, and Podell holds 10,000 shares of the corporation, again a very minor percentage.

MR. MITCHELL: Your Honor, let me state fo the record that on Plaintiff's Exhibit 26 starting at page 5 and continuing on to page 6, is a breakdown of the shares owned and the respective percentages of the various directors and their affiliates.

I have no reason to believe that this is not correct.

THE COURT: All right.

MR. WEINBERGER: Your Honor, I am not quite sure --

THE COURT: Let's not get into an argument.

MR. WEINBERGER: Your Honor, I am looking at the sheet that Mr. Mitchell is referring to and I see no mention of Mr. Podell or Mr. Waller.

I don't understand why there is a reference to this sheet if their names aren't on it.

THE COURT: Maybe they don't own any stock.

MR. WEINBERGER: I would like you to see what Mr. Mitchell is saying to your Honor.

THE COURT: Go on with the case. You have your point. Go on with your case.

MR. WEINBERGER: What is the point, your Honor --

THE COURT: I don't know what the point is.

Go on with the case. I don't want to get in an argument between you and Mr. Mitchell.

BY MR. WEINBERGER:

Q In any event, Mr. Anton, Mr. Podell and Mr. Waller are small percentage holders of stock.

Did they receive any dividends or income --

THE COURT: Nobody received any dividends. There were none.

MR. WEINBERGER: I agree. I just want to make it part of the record, your Honor, on that.

Q Did you or Mr. Srybnik or Mr. Podell or Mr. Waller receive any kind of economic benefit, direct or indirect, by virtue of the transaction with Teledyne and what took place?

MR. MITCHELL: I object, your Honor. That is a tremendously broad question. I don't know what direct or indirect means.

THE COURT: I will let the witness answer.

THE WITNESS: I was going to say the same thing, none whatsoever.

THE COURT: I assume you hoped ultimately that the stock you owned would go up?

THE WITNESS: We always hope.

THE COURT: That's right. That is why you --

A That is why I am in the business.

THE COURT: That is why you run the corporation.

THE WITNESS: Yes, sir.

THE COURT: It may have been a non-profit corporation, but it wasn't planned that way.

Q In any event, what is important is that you did not derive and neither did the other board of directors derive any benefit by virtue of the fact that the American Marc -Teledyne transaction did not ultimately work out satisfactory for both sides to that transaction; isn't that a fact?

MR. MITCHELL: I object.

THE COURT: Obviously it is a fact.

THE WITNESS: We did not, yes.

THE COURT: You would flatter the Court a little bit if you assume that the first time you say something I hear it and I don't have to hear it ten times.

MR. WEINBERGER: I am sorry, your Honor.

If your Honor will permit one other question in this area.

Q With regard to the incident, Mr. Anton, of using the money that was in the California bank and bringing it to the Eon Corporation bank account in New York, wherever they ultimately end up, was any of that money used directly

or indirectly for the personal benefit of either you, Mr. Podell, Mr. Syrbnik or Mr. Waller?

A No, sir.

Q In what fashion was any of that money that was brought back from California used?

THE COURT: It was used for the debts of the corporation.

MR. WEINBERGER: May I clarify that?

A That is correct.

Q Was any of the debts of the corporation a personal debt of either you or Mr. Waller, Mr. Srybnik or Mr. Podell?

A No, sir.

Q There was no guarantees of any of those debts, is there?

A I am sorry?

THE COURT: Did you guarantee any of the debts of the corporation personally?

THE WITNESS: No, sir.

THE COURT: All right.

Q Did Mr. Srybnik or Mr. Podell or Mr. Waller guarantee any of the debts that were paid by the corporation?

A No, sir.

Q Were those debts commercial debts incurred in the

ordinary course of business of Eon Corporation?

A Yes, sir, they were accounts owed to suppliers.

THE COURT: He wants to clarify his answer.

A They included all debts of the corporation such as for instance the fees to the SEC or attorneys fees for filing 10-Ks or accountant's fees, that kind of thing.

THE COURT: But no claims of yours?

THE WITNESS: No, sir.

THE COURT: Or of any other director?

THE WITNESS: No, sir.

THE COURT: None of the directors had guaranteed any of those claims?

THE WITNESS: No, sir.

THE COURT: All right.

Q Do you have some familiarity with the Army contract which is the subject of this litigation and the manufacture by American Marc of the generator for the U.S. Government?

A I do.

Q All right.

Would you tell his Honor when that contract came into existence with the government, approximately?

A In July or approximately in July of '69.

Q All right.

I would like if you can, Mr. Anton, to explain for his Honor how a government contract concerning this generator set comes about? What has to be done to get the government to purchase this generator set from the contractor?

THE COURT: Are you asking him from general practice or what happened in this case?

MR. WEINBERGER: From this case, your Honor, with this generator set.

THE WITNESS: The tovernment procuring agency, in this particular case the mobility command of the United States Army in St. Louis, has a list which they compiled previously for many other procurements of manufacturers which they feel are qualified to manufacture the item that they are advertising for purchase. They send a request, it is called an IFB, Information for Bid, to those manufacturers on that list.

THE COURT: You got one of those?

THE WITNESS: American Marc got it, yes, of course. Upon receipt of that bid there is usually a period of thirty days or sometimes even forty-five days for the contractor to evaluate the cost that would be incurred by him in producing -- in preparing a bid which is a bid to the U.S. Army or to the procuring agency, whatever they might

be.

Q Mr. Anton, I am sorry to interrupt, but was all of this out in California or was this information to bid and everything in New York?

A No, we had nothing to do with that.

Q So that Eon Corporation -- you were always here at the New York offices of Eon Corporation?

A Yes. I didn't even know they received such a bid request.

Q But you are familiar with the general procedure, are you not, Mr. Anton?

A By now I certainly am.

Q Would you continue with what goes on in terms of what happens?

A The request for bid -- there are a number of things that we do in Brooklyn, I am sure they did in Los Angeles or Teledyne did in Walterboro, anybody does. They take a set of drawings that accompanies the bid, which in this case is a real heavy bundle and files, many, many drawings, and they begin to evaluate the cost of producing each part.

The part has to be -- they send out requests for bids to the supplier of those parts, two or three or four. Then they wait for their replies and they make up

a sheet or a book, whatever it is, of these quotations for the parts. They add up all of those quotations and they come up to the price for -- we call it the bill of material. Then the engineering department does the same thing with the labor and they say this parti will take five minutes for this, ten minutes for that, to process into the completed part.

At the end of the schedule there will be a total number of direct labor hours separated for manufacturing in the machine shop, testing, the different labors are separated because there are different rates. The whole thing is completed and you end up with a price for the bill of material, a price for the direct labor. Then the plant --

Q May I interrupt again.

MR. WEINBERGER: May I have this picture marked for identification.

(Defendants'Exhibit M was marked for identification.)

Q I show you a picture marked as Defendants' Exhibit M for identification.

Would you describe what that picture is, Mr. Anton?

A This is a picture of a motor generator set similar to the one that the Army requested a bid on.

Q It is not the exact same one?

A No.

Q But it is similar enough to give the Court an idea of what the generator that was the subject of this controversy that was being sold to the government looks like?

A Yes.

Q Is that correct?

A Yes, sir.

MR. WEINBERGER: I offer the picture.

(Pause.)

THE COURT: The witness says that's larger than the on that is involved in this case.

VOIR DIRE EXAMINATION

BY MR. MITCHELL:

Q Mr. Anton, just so we can be clear on this, this is not a 1.5 kw?

A No, it is most likely 3, maybe 5.

Q Do you know approximately when this picture would have been taken?

A No, sir.

MR.MITCHELL: I don't see the relevance, your Honor. It is not a products liability case.

THE COURT: He wants me to see what the picture is.

MR. MITCHELL: I have no objection.

THE COURT: I don't see it is very relevant.

(Defendants' Exhibit M for identification was received in evidence.)

THE WITNESS: There is a picture of the actual unit in the manual.

MR. MITCHELL: May I have the Court Repoter read back the last statement by Mr. Anton?

THE COURT: He said there is a picture of the actual unit in the manual.

MR. MITCHELL: I assum- he is referring to the exhibit which was previously -- I think he is not referring to the previous exhibit. He indicated that was not in the manual.

THE COURT: What do you mean by the manual?

THE WITNESS: Each unit as it is produced and shipped to the government will contain a manual where the picture is of the unit and all the parts are identified. There is a manual that he has in his hand.

THE COURT: It is kind of like when you buy a car, you get an owner's manual?

MR. WEINBERGER: May we offer the part of the manual, your Honor, that Mr. Anton is referring to, the part that shows a picture that is similar in nature of the kind of a generator set?

THE COURT: You are wasting a lot of time on the picture of the generator set.

MR. WEINBERGER: I really didn't want to belabor the issue. I think this is what Mr. Anton is referring to. I didn't realize it.

THE COURT: Is this the picture you are talking about?

THE WITNESS: Yes.

THE COURT: Go on to something else. I know in general what the thing is.

BY MR. WEINBERGER:

Q You described how a request for bid information comes in --

A I didn't finish my answer.

Q Would you continue?

A The fundamental price of material and direct labor in dollars are then sent to management.

Management will then apply the factors such as overhead percentage--

THE COURT: When you say "management," do you mean management in California?

THE WITNESS: Management in California.

THE COURT: All right.

A Mr. Leonard and his management team, whoever they might be.

They will then apply to the direct labor and overhead factor and to the whole item after that, G & A factor.

THE COURT: What is that?

THE WITNESS: General and Administrative.

So the expenses are grouped in different accounts. They then will arrive at a price that it will actually cost the American Marc unit to deliver that to the Government.

To that they would add a percentage of profit.

Before bidding you always go out in an item like this and find out what the previous bidder did because you are not bidding against a vacuum, you are bidding against other suppliers that did the same thing.

Therefore, you go to an agency, the Benton Agency,

and many others, and you ask them for an abstract of bids.

That is a very fundamental thing to do because it gives you a picture of who bid before on this item and what they bid, and the quantity and the time that they bid.

And management has to scratch their heads and figure if they bid the price that they would love to obtain, they would never get the bid.

Then management has to use their own judgment as to what to do. Maybe they don't want the job and they can't get the job, they won't get it.

That's the process of management, to decide what price to bid with the information of the expense to produce and with the information as to what the other people would love to get it for.

Q Did --

A May I say this is a very laborious job. A job like this takes at least $10,000.

THE COURT: Just to get your bid ready?

THE WITNESS: Oh, yes.

Q The expense of getting the bid ready, is that any part of the concept of first article cost?

A Well, first article cost is a kind of different sort of item. It is usually not included in first article cost.

THE COURT: You mean the bid costs are not included--

THE WITNESS: Yes. You don't know if you are going to get the bid. It normally is considered a sales expense, which is included up to a certain level as permitted by the ASPR - so-called - he Armed Services Procurement Regulations, Section 15. They will tell you which of these expenses are permitted into G & A.

Q Were first article costs incurred, do you know, by American Marc in arriving at getting the Government contract? Is that incurred before you get the contract or after you get the contract?

A After you get the contract.

It is a very laborious and very, very expensive proposition.

Q What is entailed in that or was entailed in the first article costs by American Marc after obtaining the generator contract from the Government and thereafter?

A I will try to be brief.

Here is a situation. You receive a contract which in this particular case is 88 pages of regulations that you have to follow.

During the first month you may have to have six or eight meetings with different people from DECASA.

DECASA is Defense Contract Administration Service and the R is for the region because each region has a DECASA office.

So the meetings--you go through the meetings and you have to present to these meetings different sort of information.

DECASA is divided up in a number of sections and there are sections involving, for instance, quality assurance, control. These are completely people in a separate unit in DECASA and they will come in and say "Give me a quality control book."

A quality control book is a volume, maybe 200 pages, where there is the complete description of a generally approved quality control method.

Before you get the bid you have to get approval of the plant, as I was saying before, and so the quality control people will demand to see a complete set-up of quality assurance control, which is an extremely important situationwith the Government.

So they will require you to make for each operation a sheet which has to be printed and in the columns have to be listed the items for which this item will be checked, so on and so forth.

This is a laborious job because it involves

hundreds of items.

I may be boring people, but that's what it is.

Q Doyou have any idea as to what the first article costs that were incurred by American Marc after it got the Government contract for the generator sets?

A I think it is extremely important that you let me continue for a couple of minutes.

Q I'm sorry. You paused. I didn't know whether you finished your answer.

A This is-- this only involves the quality assurance control which is administered in the plant by QAR, Quality Assurance Representative.

This is a fellow that belongs to DECASA which is stationed in an office in your own plant. He is there eight hours a day. His function is to see when material comes in, it is received by incoming inspection.

Incoming inspection means that they have a roomful of testing equipment, the part is checked and numbers recorded in the sheets which were approved at the first conference.

Later on the same inspector will check the product as it goes along different stages and request different records, written records.

For instance, to give you one instance; the engine

number has to be listed on the sheet, all the tests that the engine goes through have to be recorded, and that means there are about maybe twenty days of tests on each engine.

Those records are all kept together and consist the quality assurance.

The parts when they are approved by the inspector, they are put in a separate room, which is the material control warehouse, and the inspector has a key to this quality control warehouse because these parts now are inspected and can't be used in production.

So the only reason for this quality-- for the special so-called bond room-- it has nothing to do with bond - it is simply a room, a warehouse where parts that are already inspected are kept.

Q Was this done in American Marc out in California?

A It must be done by every contractor, otherwise the Government will not accept the final product and will issue stop orders.

Q Are you finished?

A There are other functions of DECASA. DECASA continuously audits the records of the company, of the contractor, in this particular case American Marc. So when American Marc would send through a DD1195, it would

never, never be passed for payment unless it is audited.

The audit, it is not a very complicated thing. The auditor, which is a separate department of DECASA, comes in and when you have a listing of direct material on the DD1195, he will go through and see that you have the invoices and the incoming inspection receipts to assure that that material is satisfactory before he passes that item.

Of course, he makes a whole schedule and comes to a number which must correspond to the number that you stated on the DD1195.

THE COURT: You are not telling me that you know that this happened at American Marc; you are just telling me this is the general practice which you assume must have happened at American Marc?

THE WITNESS: I know it happened because I was there two or three times. I went through the plant. That must have happened. It happens in our place. I saw it there.

THE COURT: You saw it happening at American Marc?

THE WITNESS: Yes, sir.

THE COURT: All right.

Q Are you through with the answer to the question as

to first article costs?

A Oh, no. It will take, I would say, a minimum and it did take American Marc a minimum of six, eight months to produce the first batch of items.

They may elect to put through one hundred samples--not samples -- one hundred engines or one hundred fifty or fifty, whatever number it was.

Q When you say "items," you mean generators--

A Complete units has to be delivered to the Government.

Q Then what happens?

THE COURT: The first article cost applies to that first batch?

THE WITNESS: No, no. It would be prohibitive. In other words, that cost in American Marc was close to a quarter of a million dollars.

THE COURT: When you refer to the first article cost,you refer to what it cost to produce the first batch?

THE WITNESS: And all of this--

THE COURT: And everything that you have said?

THE WITNESS: Yes.

THE COURT: All right.

That has to be spread out?

THE WITNESS: Yes, so that in this particular

case it amounted to $30 a unit. $250,000 divided by 8,000,roughly speaking, is $30 a unit. So the first article cost is $30 a unit.

Q What happens then when you produce the first batch, as you used the phrase, of generators? Is that then inspected by the Government?

A Well, the first batch is presented to the Government with all the records and the records may be seventy, eighty pages of records for each unit.

The inspector then will say, "Take this one and this one and I want to run some more tests."

Those two first units, four first units, whatever it is, are called first articles. The first articles go through extensive testing all over again.

To give you an idea, for instance, they would send this engine to a facility that has a railroad car. They will put the units on and hit the railroad car in all kinds of junctions and then the units get sent back to the original manufacturer.

THE COURT: Let me make it clear.

You tell me what you assume must have happened because it happens everywhere, or are you telling me what actually happened --

THE WITNESS: It must have happened and it happened.

THE COURT: I know. I can tell you that in the Court of Appeals in California there are three judges; not because I have ever seen it but because that's what I know it is.

THE WITNESS: I did not witness myself every one of the tests, no.

THE COURT: You just told me what must have happened because you know it generally happens, is that what you are telling me?

THE WITNESS: Yes, sir.

Q You are personally familiar with the Government contract work, are you not, sir? How long have you been involved in Government contract work?

A In excess of forty years.

THE COURT: I'm not challenging that. I just want to know what he is telling me from his own knowledge and what he is telling me from his broad experience in the field.

Some of these inspection matters he says he is telling me from his own knowldge because he was at American Marc and saw it being done.

THE WITNESS: You see, your Honor, in going through the records of American Marc in 1972, 1973, 1974, whenever the dates are, I saw, for instance, all of the

people that were working on this job, all of the inspectors and the quality control man and the material controal man and so on, all of the different supervisory personnel that was involved in preparing not only this unit, but these people have to keep working all the time.

THE COURT: When did you go over these records?

THE WITNESS: In 1974. For instance, I discovered an invoice for just this test that I was describing for which American Marc paid separately.

Teledyne did not pay that. American Marc paid.

Q In other words, when you say 1974, this is after the records had all come back, whatever records came back from California, what Mr. Mitchell went through and perused, and then in preparation for this trial and testimony you had an opportunity to go through those files to see what was in there?

A Yes, in preparation for the trial.

My normal procedure would be never to look at those records.

THE COURT: You told me you did see actual inspections being made at American Marc when you were there?

THE WITNESS: Yes.

Q Was that at the time you were out there, you may

have visited the plant--

A Yes. I was out, for instance, in April of 1971 when Mr. Leonard told me he was concluding negotiations of selling the entire American Marc Division, including the contract, to Watts Engineering.

I was there a couple of days and I went to the plant and I went to Watts Engineering.

We did conclude many things with them.

Q I think you were talking about the extensive testing and the preparation of the first batch of generators, and you mentioned this was a six to eight-month period.

All of this is in preparation, is it not, for getting Government approval for the commencement of shipping of a generator set satisfactory to the Government pursuant to its specifications, isn't that correct?

A That is correct.

Q How long a period did this entire operation take with regard to this particular generator set?

A It depends on the complexity of the item, it depends on the number of people assigned to do the job and it depends on the ability and efficiency of those people.

Q In American Marc's case, do you know how long it took to get the approval of the Government before American Marc commenced the shipment of generator sets pursuant to the contract to the Government?

A Approximately a year.

Q Do you know or have any idea as to what it cost American Marc in the way of this first article cost and until you got to the point of the shipment of the first approved articles for the Government contract?

MR. MITCHELL: I object, your Honor.

There has been no proper foundation laid. Mr. Anton stated all he has done in 1974 is look through some of the historical records and it was not his practice to otherwise look through them.

THE COURT: What was the exact question?

(Question read)

THE COURT: How would you know that, the answer to that question?

THE WITNESS: Well, if you don't have all the

records, as we do not have, I looked at the DD1195s.

THE COURT: They are the--

THE WITNESS: The requests for progress payments, and you can see no units were shipped but progress payments were requested.

THE COURT: So you can answer that question on that basis?

THE WITNESS: Yes.

THE COURT: All right, I will allow the answer.

MR. MITCHELL: Your Honor, may we have a time fixed at which these DD1195s were perused?

THE COURT: When did you make the study of the DD1195s?

THE WITNESS: In late 1974, prior to the trial, prior to this appearance, your Honor.

Q What did you ascertain as to being approximately the first article cost to American Marc?

A Well, Mr. Rouse's statement shocked me --

Q I didn't ask you what Mr. Rouse said.

Just answer the question, Mr. Anton.

What did you ascertain approximately were the first article costs to American Marc?

A I stated approximately $250,000. It is a little difficult, and the DD1195 will show a greater amount.

During this period they had acquired material, maybe even in excess of the first batch of equipment being manufactured.

Q Getting back to the Government contract for a moment, Mr. Anton, there was talk about first year production and second year production.

Can you clarify that also as to what that was?

A There is no such thing. The contract calls for 8000 units with deivery schedule and the contractor is empowered by the Government contract to purchase material.

He is not limited to purchase material for first year, for second year, [illegible] it is impossible anyway, because if you were to purchase the screws, let's say, and the washers, for only 4000 pieces instead of 8000 pieces, it would involve much more work.

So you purchase the entire amount and you have it inspected and put it in your controlled warehouse.

So this procurement, first and second year, has only to do with delivery schedules, not with procurement.

Q In the process of developing these first article costs and then submitting it to the Government with all the quality control involved and all the expenses incurred, and so on, at some point is it not a fact, sir, that Eon Corporation and the American Marc subsidiary qualified

itself to the Government to produce and deliver and sell to the Government the generator set?

Isn't that generally the fact?

MR.MITCHELL: I think Mr. Weinberger means division, not subsidiary.

MR. WEINBERGER: Division, I didn't use it in the technical sense, your Honor.

THE COURT: If they were qualified, obviously it must have --

MR.WEINBERGER: All right, your Honor.

Q By being qualified, all of the parts were all accepted then, the quality control of the parts were also accepted by the Government?

A Correct.

Q Relating it for the moment to what actually took place here with Teledyne, it is a fact that Teledyne originally bid to the Government for the exact same generator set some time in the early part of 1971?

A Thatis correct, in March of 1971.

Q How did you learn that information, if you will?

A You see, we were manufacturing the control box in the Eon Manufacturing Division in Brooklyn for American Marc --

Q What is the control box?

A It is a box which contains the electronic control for the generator.

Q In other words, here in New York one of the other subsidiaries was preparing a component for the generator set manufactured by American Marc, is that correct?

A Well, this component contains hundreds of parts--yes. It is not a simple component.

Q Would you proceed with how you learned about the Teledyne bid for the exact same generator set in early 1971?

A Very often, being qualified for manufacturing generators, or parts of it, we received duplicate bids and we received an IFB for generators in Brooklyn besides receiving it in American Marc.

THE COURT: How did that tell you what Teledyne bid?

THE WITNESS: Well, the Teledyne is very simple because every time you get a bid you immediately, as a matter of routine, check before even doing any work, who supplied those parts before, and for how much, because if that price appears to you ridiculous, then you don't go through the whole procedure--

THE COURT: The answer to his question is that you went to one of these services and got the bid?

THE WITNESS: Right.

Q Did you ascertain, Mr. Anton, what Teledyne had bid for the same generator set that was then being supplied to the Government by American Marc?

A Yes. They bid $349.75.

Q By the way, you know this figure in preparation for the the testimony here today?

A Of course.

THE COURT: When did you know it for the first time?

THE WITNESS: In March of 1971-- I'm sorry, I think it was the end of March, maybe beginning of April, 1971.

THE COURT: You found it from one of these sources that you told us about?

THE WITNESS: Yes.

Q Teledyne was not the only company that bid on that generator set?

A No, sir.

Q About how many companies bid?

A If I remember right, there were two lower bidders and then Teledyne and then two or three higher bidders, five, six people.

Q In the concept of the transaction that took place and first article cost and the tim involved by Teledyne

selling to American Marc the generator set, did it derive a specific benefit from the form of that transaction as compared to American Marc novating the contract -

THE COURT: For God's sake, why ask him that? It is perfectly obvious. They made a profit on it.

MR. WEINBERGER: When you say they made a profit --

THE COURT: The difference between what the Government was paying them and what they were paying Teledyne.

MR. WEINBERGER: That is not my question, your Honor.

THE COURT: What is your question, then?

MR. WEINBERGER: My question was addressed to what advantage was there to Teledyne--

THE COURT: That is not what you said, or maybe I didn't understand you.

MR. WEINBERGER: I will stand corrected, your Honor.

Q What advantage was it to Teledyne to sell the generator set to American Marc so that American Marc remained the prime contractor rather than having American Marc go to the Government and say, "We don't want to deliver any more" and let the Government negotiate directly with Teledyne or any other bidding party?

A This is a complicated question --

THE COURT: Maybe the answer will be simple.

A It involves a few misconceptions.

One of the words is "novating" and to define that and get it out of the way, novating means when two contractors; one,the prime,and one,a proposed prime appear before the Government agency and say: For this and this reason, I cannot manufacture" whatever the reasons are, "but I have another contractor who is willing to assume" and the Government will invariably make certain that the price will be lower for the second contractor, and if they want to, they will then novate the contract to the new person, completely eliminating the old contractor.

In this particular case, it would have been the greatest absurdity in the whole world--

THE COURT: From Teledyne's point of view, why would that be so?

THE WITNESS: Because of the fact that the Government would have to go through the entire procedure, a year's work, $250,000 to American Marc, let's say half of it, not most experienced, the most able contractor, which would then cost $150,000 minimum.

So for an experienced person to say novating-- an attorney is all right, but in management --

THE COURT: I get the difference.

THE WITNESS: It is absurd.

THE COURT: What you are telling me is that if they had novated, the Government would have gone through all this new inspection period--

THE WITNESS: There are many other reasons, your Honor. For instance, this contract is small business. You can't go to Teledyne and say you want to give the business to them because a small business representative in the purchasing agency of the Government will immediately say, "Absolutely not. This is a contract for small business."

THE COURT: Teledyne was big business?

THE WITNESS: Only a billion dollar concern, your Honor.

There are many other reasons I could give you, if you are interested.

Q It also was a fact that aside from all of these reasons, Teledyne was saving the first article costs by --

A Absolutely. We had agreed, and it was inconceivable otherwise, that we had to give them all the records, equipment, tools, and everything that was already approved and they had to be a subcontractor and they couldn't possibly be any other thing.

Q So that in the ordinary course of business, isn't it a fact, Mr. Anton, that having had the benefit of

American Marc's qualification by the Government and the acceptance by the Government of the quality control of the components of the generator set, and everything, that in the ordinary course of business Teledyne should not have been required to take a year, at least, to manufacture the generator set and deliver it to the Government?

That would be the ordinary course?

MR. MITCHELL: I object, your Honor.

Again, there is no foundation. I think the witness is being put on to answer hypothetical questions with respect to facts which are not in his knowledge.

MR. WEINBERGER: I think he has demonstrated his qualifications as an expert and an experienced businessman in this area to explain to your Honor what would be in the ordinary course of business in connection with this generator set.

THE COURT: I don't quite understand your question.

What was the question?

MR. WEINBERGER: I will withdraw the question, your Honor.

THE COURT: That solves that one.

Q It is a fact, is it not, Mr. Anton, that by Teledyne selling the generator set to American Marc at any

At the February 4th meeting we made it a general sort of bonus arrangement.

Subsequently when the subcontract was obtained, I took with me to-- I testified to this already -- I took with me the contract, and in that letter obviously I specified the subcontract.

Q Would you tell his Honor about the events leading up to the time you went out to California on May 12th?

Did you have any conversations with Mr. Leonard prior to your going out to California on May 12, 1971?

A Yes, I did. I spoke to him the week before I went out. He was telling me about speaking to Hollingsworth, to otherpeople.

On Monday, the 10th, he told me that he was having conversation with Teledyne and they were progressing satisfactorily.

Q I see.

Did you have any further conversation with him over the phone?

A On the 10th, on the 11th I had two or three conversations and he brought me up to date, you could say, on the type of negotiation that he was having and he gave me the price of $350, which I thought was high, and also we discussed the percentage that we were going to get, that

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Q Did you have any conversation with any other members of the board of directors about going to California?

A It was, I wanted to say, my practice,but it isn't true -- I spoke over the telephone to the board of directors, yes.

Q Who did you speak to?

A I don't remember them now distinctly, but I most likely spoke to Mr. Podell, Mr. Srybnik, Mr. Waller; that's about all.

Q Did you discuss with them anything about the arrangements being made with Teledyne in any specific matter?

A I don't think I really did, because I didn't have a finished understanding of accurate numbers, but I am sure I must have told them something.

I didn't just tell them I was, you know, going to subcontract.

Q At the point that you had spoken to any one of them, what understanding did you have at that point as to what you knew about the Teledyne arrangement?

A That the figures involved were $350 a unit and 85% of the cost of inventory.

Q You left--

THE COURT: You were selling the inventory at

85% discount over your cost?

THE WITNESS: No, 15%. Our costs included the material costs, inspection --

Q On May 12th you left New York to go to California?

A That is correct.

Q About what time did you arrive in California?

A Because of the difference in time, I arrived in California --I think the plane arrived 12:30 and by the time I got through, it was close to one o'clock

Q That was in the afternoon?

A Yes, sir.

Q When you arrived in California, Mr. Leonard met you at the airport?

A Yes, sir.

THE COURT: How did this 85% figure get arrived at, do you know?

THE WITNESS: Mr. Leonard was negotiating with the Teledyne people and they said that that is a figure they wanted but they had not agreed to the 85%.

I don't know if this was on the 11th or the 12th-- I mean, the 10th or 11th, but it was during those conversations.

Q In your telephone conversations with Mr.Leonard, were you ever told anything about any banking arrangements

on that telephone call?

MR.MITCHELL: Would you specify a time, which telephone conversations you are referring to?

THE COURT: He said any telephone conversation, any banking arrangement.

Q Yes.

A Not at all.

Q Did you have any discussion with Mr. Leonard about title to inventory?

A In a slight way, yes.

Q In what way?

A Well, that was one of the points that I was taking up at the end of the discussion, the May 12th meeting, and I suggested we should get this cleared and take the document to one of our attorneys.

Q I asked you, did you have a conversation with Mr. Leonard on the phone about title to inventory?

A No, sir.

Q Did you have any conversation with Mr. Leonard about the status of progress payments or money in the Government contract when you spoke with Mr. Leonard on the phone?

A None at all.

Q Did that come up in any way in your conversations?

A No, sir.

Q You went out to California and Mr. Leonard picked you up?

A Yes, sir.

Q When he picked you up, you drove to the International Hotel, I believe?

A That is correct.

Q You and Mr. Leonard were alone in the car?

A Yes, sir.

Q Did you have any further conversation with him in the car?

A I believe I testified to that already.

Yes, we did.

Q Well, what conversationdid you have with Mr.Leonard; what did he say to you and what did you say to him?

A Well, I don't remember exactly now how the thing happened, but by general items, we discussed, (1) his contract, or his bonus contract, you could say, (2) the price, which I learned then had changed from $350 to $360, and the percentage of the invertory which he told me would be 75% instead of 85%.

Q In the car, did Mr. Leonard tell you anything about any banking arrangements?

A No, sir.

Q Did Mr. Leonard tell you anything in the car about making any representations about title to inventory or selling inventory free and clear?

A I really would say no, but he may have said a word or two.

THE COURT: What would he have said, if he said anything?

THE WITNESS: I don't remember, sir. I just don't want to exclude that he may have mentioned that, because I don't think he said anything --

THE COURT: When you sell inventory, as a businessman you know there is an implied warrant of title?

THE WITNESS: I had it definitely in my mind there is no warrant or title, because that inventory, as I explained, was part of the manufactured part in the end. There is no question that whatever was involved American Marc was responsible for that inventory to get finished ~~parts~~ sets back to the Government.

THE COURT: It was sold subject to limitation that it be used in this thing?

THE WITNESS: That is correct.

THE COURT: But you had the right to sell it, subject to that limitation?

THE WITNESS: Well, that is your interpretation, sir.

THE COURT: If you sell me your necktie, you are representing that it belongs to you and not to Mr. Feldshuh.

THE WITNESS: I did not sell them the inventory, I only required them to pay for the inventory and this part had to be used in the manufacturing of that set.

It is not the same thing as selling your necktie. If you wear the necktie in the morning, you may give it back in the afternoon, for which I will pay you for a whole suit, or something like that.

THE COURT: I see.

Q Did you have any discussion with Mr.Leonard or did the subject come up about how much money is left in the contract or progress payments or anything like that?

A No, sir.

Q You and Mr. Leonard arrived at the hotel?

A Yes, sir. We drove to the International Hotel.

Q When you got there, you met Mr. Rouse?

A Well, we went inside and they were not there-- we went inside, both he and I, and we located them in the bar downstairs-- I mean a luchroom, bar.

Q Mr. Rouse and Mr. Coleman were together?

A Yes, sitting at a table.

Q You were introduced to them?

A Yes.

THE COURT: You had never seen them before?

THE WITNESS: No, sir.

Q Did you remain with them there?

A No. I don't think I even sat down -- or I may have, I don't know. Anyway, we left immediately.

THE COURT: You mean all four of you left?

THE WITNESS: Yes.

Q And the four of you then went in the same car?

A Yes, we went in the same car, at least I think so. But, anyway, we ended up at the American Marc office.

Q When you got to the American Marc office-- do you recall approximately what time you got there?

A It must have been around 1:30, or so, in the afternoon,maybe later, a few minutes-- approximately.

Q When you got there, I believe you testified you sat down and Mr. Rouse sat near a desk.

A Yes. Mr. Leonard was at his seat at the desk, in the back of the desk, I was on this side and Mr. Rouse was there and Mr. Leonard was down there (indicating)

Q In your conversations with Mr. Leonard, did you ever have any conversation with him about Mr. Walker?

A No, sir.

Q Did you have any knowledge on going out to

California that Mr. Walper had participated in any way or involved himself in this transaction?

A No, sir.

THE COURT: When did you first find that out?

THE WITNESS: When I read the deposition of Mr. Walper.

Q Walper?

A When I read the deposition of Mr. Walper or somebody else in California, that I went to California.

Q Let me ask you a question, Mr. Anton.

Do you recall reading the deposition of Mr. Rouse?

A Yes.

Q Do you recall whether or not it was Mr. Rouse's deposition that you read where you first learned about Mr. Walper?

A Thank you for refreshing my mind. Yes, sir.

THE COURT: Who testified first, Rouse or Leonard?

MR. WEINBERGER: Mr. Rouse.

THE COURT: He testified before Leonard?

MR. WEINBERGER: That is correct, your Honor.

A Leonard never told me a word about Walper.

THE COURT: He testified about Walper in his deposition?

MR. WEINBERGER: That is correct. Mr. Rouse

testified first, your Honor.

THE COURT: You don't dispute that Walper did start this, introducing him, do you?

MR. WEINBERGER: From the point of view of the defendants, we have no knowledge--

THE COURT: Leonard's testimony as read to me yesterday, over my protests, was that the first time he heard from Rouse, Rouse told him Walper had told him these were the facts.

Does that mean Walper must have told him these are the facts?

MR. WEINBERGER: Yes, but I am only submitting -

THE COURT: Does the defendant dispute that Walper in fact introduced Teledyne into the matter? That is a simple question.

MR. WEINBERGER: We are not disputing that because we have no knowledge of that.

THE COURT: Is Mr. Leonard accessible to you? When you took Mr. Leonard's deposition--

MR. WEINBERGER: We didn't take it, your Honor. The plaintiff-

THE COURT: You were present at it?

MR. WEINBERGER: Yes, sir.

THE COURT: Did you have any reason to suppose

Mr. Leonard lied when he said that the first time he heard from Rouse, Rouse told him Walper had told him about the deal?

MR. WEINBERGER: We have no reason to know otherwise.

THE COURT: Then why do you say you have no information as to whether in fact Walper introduced Teledyne into the deal?

MR. WEINBERGER: Your Honor, the importance is not that whether we knew --

7b am

THE COURT: Don't tell me what is important. Please answer my question.

Are you taking the position that Walper did not introduce them into the deal?

MR. WEINBERGER: No, sir. We are taking the position that the personal defendants here had no knowledge of that.

THE COURT: I don't care about that.

MR. WEINBERGER: Well, that is the issue.

THE COURT: You are not taking the position that Walper did not introduce them into the deal?

MR. WEINBERGER: We are not taking that position.

THE COURT: What difference does it make whether the personal defendants had knowledge of it or not?

MR. WEINBERGER: Well, your Honor, I think that goes to the question as to the integrity of the defendants as to their knowledge of all the events, where a Mr. Walper, who was allegedly an employee of Mr. Srybnik receives a commission --

THE COURT: There is no question that Mr. Walper -- tell me how it has any bearing on this case whether this man knew Walper or didn't?

MR.WEINBERGER: It goes to the bearing of what went on in California without the knowledge of the personal

defendants here in New York.

THE COURT: What difference does it make whether they knew about Walper, not about anything else, just about Walper?

MR. WEINBERGER: Your Honor, their lack of knowledge of Walper is an indication to your Honor of their lack of knwoeldge of many things that went on in California. That is the issue.

THE COURT: All right.

MR. WEINBERGER: In addition, your Honor -- well, let's leave it at that.

THE COURT: I want to know. Don't fence with me. Does it have any other relevance?

MR. WEINBERGER: Walper's payment?

THE COURT: His knowledge of it.

MR. WEINBERGER: No, nothing other --

THE COURT: Had nothing to do with anybody's integrity, his knowledge of Walper's payment had nothing to do with anybody's integrity?

MR. WEINBERGER: I don't understand the question.

THE COURT: You said it had to do with somebody's integrity and I am asking you does it?

MR. WEINBERGER: Yes. It has to do with the integrity of the personal defendants in showing your Honor

they had no personal knowledge of events out in California, so that they may not be involved in any fraudulent scheme or anything like that.

THE COURT: Oh, as long as you are concentrating on the defendants.

MR. WEINBERGER: On the defendants, yes. Mr. Feldshuh reminds me of an issue, your Honor, and that issue is that Mr. Walper's payment by Teledyne is a manifest violation of the purchase agreement.

THE COURT: What difference does it make whether he knows it or not?

MR. WEINBERGER: It does have reference to the violation by Mr. Rouse of the purchase order, your Honor.

THE COURT: But that has nothing to do with his knowledge?

MR. WEINBERGER: Agreed.

THE COURT: That is all I asked. I wish you would listen to the question and not go all over the lot with other things.

MR. WEINBERGER: I am sorry, your Honor.

THE COURT: Did this fellow Leonard usually keep things from you like this?

THE WITNESS: I cannot make a statement that he

kept it from me. He simply did not tell me.

THE COURT: Was that usual that he didn't tell you these things?

THE WITNESS: Definitely. He did not tell me every detail of everything he was doing.

THE COURT: When he was getting $10,000 from you he didn't tell you he also had a finder in the deal?

THE WITNESS: That's right. I would have objected very strenuously to that one.

BY MR.WEINBERGER:

Q You were at the American Marc offices and Mr. Rouse was present, Mr. Coleman and Mr. Leonard. Did you ever see Mr. Walper anywhere at the time that you were there?

A I would say no. Whether I saw men walking, yes, but I don't know Mr. Walper and I wouldn't recognize him if I meet him.

THE COURT: You may have seen me, as far as you know, and you wouldn't recognize me either.

Q What happened when you were in -- was it Mr. Leonard's office you were in?

A Yes.

Q What happened when you got there?

A What?

Q What happened when you got to Mr. Leonard's

office with the other gentlemen?

A Mr. Leonard opened the meeting and explained what he did and he brought out as a first item the purchase order, which was all typed.

Q It was all prepared already?

A Yes.

Q Do you recall whether it was signed by that time?

A I don't know whether it was already signed or whether he signed it in the office or whether somebody else signed it. Right now I know, because I saw in '74 that it was signed by the purchasing agent of American Marc, but at that time I don't know.

Q In addition to the purchase order, did Mr. Leonard show you any other document?

A Yes, sir.

Q What other document did he show you?

A He had prepared a document with reference to the inventory and the tooling transactions.

Q When you say he prepared, do you mean Mr. Leonard or Mr. Rouse?

A I believe it was Mr. Rouse.

Q Did you discuss the purchase order? First of all, did you look at the purchase order?

A Yes, I looked at the purchase order and I testified

already that the thing that impressed me was the net 30 days in the "term" box.

Q Did you look at anything else in the purchase order?

A I went through the purchase order and it was most technical details of transferring the main contract to the subcontractor.

Q How about the price?

A The price was $360.

Q When you noticed the purchase order did you make any comment to anybody?

A Yes; I looked it over and I don't think -- I don't know whether I didn't like some of the language or something and said "Let's see our attorney. This is an agreement and I won't sign it unless our corporate attorney will check it over."

Q You commented to the Judge, and you and the Judge had a discussion, on your direct examination, that when you saw the 30 days, you objected to that, is that a fact?

A Yes, I objected.

Q Would you tell the Court again why you objected to the 30-day provision, in the "term" box of the purchase order?

A Well, I don't remember the exact words --

THE COURT: Just tell us now --

A The substance of the conversation was that the net 30-day terms could not be made without obtaining payment for some of the generators that were going to be delivered by Teledyne and that it would take at least 60 to 90 days before the use of such money would be available to pay them. Essentially, that is what I told them.

Q Anybody else say anything in regard to what you said?

A Yes. Mr. Rouse said, well, he understands his government business, "So you will owe me the money."

Q Did you have any further discussion at this point about banking arrangements?

A None whatsoever.

Q Did Mr. Leonard say anything about banking arrangements?

A I believe I testified to that already and the answer is no.

THE COURT: Did you know at this time that they had a D&B?

THE WITNESS: Yes. I remember a very short exchange about the financial condition of American Marc, and Rouse said that he already discussed it with Leonard,

or Leonard said he discussed it -- between each other.

THE COURT: What was Rouse's view of the financial condition of American Mark?

THE WITNESS: He certainly didn't express it to me. He said he was aware of the financial conditions of American Marc.

THE COURT: Did that mean to you he thought it was very solvent or not very solvent?

THE WITNESS: We were always solvent. We paid all our bills. We may be late but we never welched on any bills.

Q Did you have any further conversation with Mr. Rouse about the need to change the 30-day payment in the purchase order?

A When?

Q At the time you were with Mr. Rouse.

A No.

Q Did Mr. Rouse say anything to you -- did you ask him to change that term in the order?

A If I remember now, I asked that that be changed but he said, "You will owe me. Leave it alone. It is for my own internal people."

THE COURT: Was anything said about anybody exchanging letters after this to clear this up?

THE WITNESS: No.

THE COURT: As far as you were concerned, there was going to be a contract signed which, in form, puts you in default -- under this contract you were in default of 30 days, right?

THE WITNESS: Well, I was worried about that and that is why I ask about it and he assured me he needed it for his internal people and I should not worry about it, I will owe him the money. You are correct, sir.

THE COURT: What did your lawyer say when you showed him this document?

A They were very unhappy, but that is what it remained.

THE COURT: We will have to break within five minutes.

Do you want to go on for five minutes or --

MR. WEINBERGER: May I stop here, your Honor?

THE COURT: Yes. I can't be back until 15 minutes past .

MR. WEINBERGER: Perhaps it would expedite matters, your Honor, by having that extra five minutes.

THE COURT: All right, 2:15.

(Luncheon recess.)

AFTERNOON SESSION

2:20 p.m.

N I C H O L A S A N T O N, resumed:

DIRECT EXAMINATION (continued)

BY MR. WEINBERGER:

Q Mr. Anton, before lunch we were talking, were we not, about your conversation with Mr. Rouse about the 30-day provision?

A Yes, sir.

Q And you told Mr. Rouse that payment within 30 days was not acceptable and could not be accomplished?

A Correct.

Q What did you have in your mind, when you said that?

A I had in my mind more 60 to 90 days, which is a reasonable time and a true time that you are going to get paid.

THE COURT: You mean from the Government?

THE WITNESS: Yes.

MR. WEINBERGER: At this time, your Honor, I would like to offer what we have already premarked as Exhibit O for identification -- I'm sorry, Exhibit N for identification, and ask Mr. Mitchell to stipulate, your Honor, for the record, that Exhibit N is a letter dated

July 8, 1971, from Teledyne Continental Motors to Mr. Leonard in California, at American Marc, signed by Mr. Saunders, M. W. Saunders, Supervisor of Contract Administration of Teledyne Continental Motors.

Attached to that letter is an agreement dated July 1, 1971, with numerous provisions that we will direct your Honor's attention to, and that at the end of the agreement it has certain exhibits attached to it and the agreement is signed by Mr. Saunders on behalf of Teledyne Continental Motors Corporation.

May I have Mr. Mitchell stipulate that, your Honor, for the record?

(Pause)

MR. MITCHELL: Mr. Weinberger, where did this come from?

MR. WEINBERGER: That document, Mr. Mitchell, you culled out of the American Marc files that came from California and you and Mr. Lang of your office had Mr. Anton identify it in Mr. Anton's deposition and I believe that that document is identified as Exhibit 20L.

THE COURT: You mean in pretrial?

MR. WEINBERGER: Yes, your Honor.

Your Honor, attached to Mr. Saunders' letter was the document also culled out, entitled the agreement

that was attached to Mr. Saunders' letter, and that was identified as Exhibit 20M in Mr. Anton's deposition.

MR. MITCHELL: If that is the way it was so identified, we have no objection.

MR WEINBERGER: Will you stipulate these are the documents sent from Teledyne?

MR. MITCHELL: I will stipulate those were the ones obtained from the American Marc files, that they appear to be communications from Teledyne and I have no information they are anything other than that and so I will not object.

MR. WEINBERGER: May I at this time offer Exhibit N in evidence?

THE COURT: Received.

(Defendant's Exhibit N received in evidence)

MR. WEINBERGER: Your Honor, may I call your Honor's attention, for the moment, to the documents that have been received in evidence?

THE COURT: You mean the ones right now?

MR. WEINBERGER: Yes, the ones that your Honor has.

The first thing is thatthe letter from the contract administrator of Teledyne Continental Motors, the gentleman whose responsibility is and whose province

it is to administer the contract with American Marc is dated July 8, 1971, almost two months after the purchase agreement was entered into, and if your Honor will please refer to the second paragraph, in Mr. Saunders' letter--

THE COURT: I have just read it.

MR. WEINBERGER: He is saying "We are defining our agreement," and if your Honor will look at the contract that Mr. Saunders forwarded with that letter, may I draw your Honor's attention first to the identification of the parties at the top of the agreement, and if your Honor will note, the identification of the parties is called "Teledyne" or "TCM" herein referred to as seller, and Eon Corporation-American Marc Division, hereinafter referred to as buyer."

May I also call to your Honor's attention the witnessed clause, on the same first page of that agreement, and in the witnessed clause there is a reference, your Honor, to the procedure underlying arrangements back in May.

May I call your Honor's attention to the reference to a purchase order, and that witness clause, your Honor, prepared almost two months later, with the aid of attorneys and whatever facilities the Teledyne Corporation has at its full command, nowhere in that witness clause is there a reference to a trust relationship, a fiduciary relationship created between the parties.

Your Honor, I now call your Honor's attention to a most important part of that agreement, insofar as it relates to this case.

Your Honor will note that the agreement consists of nine pages and annexed to the nine pages an exhibit that consists of -- there are a number of exhibits, Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F, and the exhibits collectively are, roughly, ten pages, annexed to the agreement.

Your Honor, may I call to your attention paragraph 14, page 9 of the agreement, and I believe your Honor may have a paper clip on page 9 of the agreement, I [illegible] --

THE COURT: Yes.

MR. WEINBERGER: I call your Honor's attention, if I may, to payment terms and the very clear words, "The seller's payment terms are net 30 days."

THE COURT: What is this word "no" exclamation point?

MR. WEINBERGER: That was on the exhbiit as found in the California files.

THE COURT: So presumably American Marc put that in?

MR. WEINBERGER: Presumably, and maybe Mr. Leonard, when he saw that.

What is important, your Honor, is the clear understanding on the importance of the people at Teledyne who are responsible for the administration of this agreement that there is a debtor-creditor relationship that has been existing between the American Marc and Teledyne.

MR. MITCHELL: Your Honor, may the record also note that it doesn't appear to have been signed and, therefore, when Mr. Weinberger refers to it as an agreement, it is referring to the title of it and not the fact that it is an operative legal document.

MR. WEINBERGER: So conceded, your Honor.

THE COURT: It is offered to show the state of mind of Teledyne at the time it was signed?

MR. WEINBERGER: Exactly.

Your Honor, we had premarked another exhibit, Exhibit O, and I ask Mr. Mitchell to stipulate for the record that the exhibit marked Exhibit O is a letter from Continental Motors again to American Marc in California, dated October 9, 1971, signed by W.A. Anderson, Contract Administration Chief of Continental Motors, and this document, your Honor, was marked Exhibit 20J in Mr. Anton's deposition, as a document that was out of the American Marc files delivered from California.

MR. MITCHELL: Your Honor, I am sure Mr. Weinberger is offering the typewritten portion of it. I don't know if he intends to offer the marginal handwritten annotations. As far as the typewritten portion is concerned it appears to be a letter on the letterhead of Teledyne Continental Motors and I have no objection.

MR. WEINBERGER: In the light of Mr. Mitchell's statement, your Honor, may I ask Mr. Mitchell to further stipulate that the signature on the lower right-hand corner, dated October 9, 1971, the handwritten words, "J.H. Coleman and H.R. Campbell," are the signatures of the employees of Teledyne and that they signed that document as indicated on that date.

THE COURT: Off the record.

(Discussion off the record.)

2a pm

MR. MITCHELL: Your Honor, Mr. Coleman is certainly a representative of Teledyne. Mr. Campbell I believe is. There appears to be their signatures that are dated on the lower right-hand side.

I stipulate that those are their signatures.

MR. WEINBERGER: May I offer this Exhibit O into evidence, your Honor?

THE COURT: No objection?

MR. MITCHELL: No objection, your Honor.

THE COURT: It is offered only for the typing?

MR. WEINBERGER: He is stipulating that they are the signatures of the employees.

THE COURT: There is other handwritten material on there.

MR. WEINBERGER: But that the employees did sign.

THE COURT: Received.

(Defendants' Exhibit O for identification was received in evidence.)

THE COURT: Is there anything in particular you want me to look at?

MR. WEINBERGER: Your Honor, I just want to see if I can find a copy of it.

(Pause.)

MR. WEINBERGER: May I ask your Honor, No. 1,

to note that the date of the letter is October 9, 1971. The first paragraph makes reference, of course, to the result of a meeting, verbal arrangements and so on, the discussion between Mr. Leonard and other people, and particularly, your Honor, the fact, if you will, that the typewritten letter purports to modify and change and consider terms and agreements of the original purchase order.

Particularly, your Honor, I would like to call your attention to paragraph 8 on the second page, and particularly paragraph 8-A.

THE COURT: Yes.

MR. WEINBERGER: The point again, your Honor, is this: Before any shipments of generator sets took place, and I think Mr. Mitchell and I coud agree readily that no shipments took place until November by Teledyne -- as late as October 9, 1971 Mr. Anderson and Mr. Coleman, your Honor, whose handwriting is on that sheet as of October 9, 1971, is still looking to American Marc as a debtor, creditor relationship. Nowhere are the words, you are our fiduciary, you are our trustee, we are going to look to you for moneys.

THE COURT: I see your point. Do you have any explanation for paragraph A which to everybody's agreement misstates the facts?

MR.WEINBERGER: Do I have an explanation, sir?

THE COURT: Yes.

MR. WEINBERGER: Your Honor, I do have an explanation.

THE COURT: Over here, although it is not in evidence, American Marc will accept. Why did they say that when they knew they couldn't?

MR. WEINBERGER: Because, No. 1, your Honor, my explanation from the very beginning and Mr. Anton's statement is right from the very beginning of this trial has been that the so-called banking arrangement was not in terms of creating a trust relationship.

THE COURT: I understand.

MR. WEINBERGER: They were talking in terms of when payment would be made.

THE COURT: I understand that. This is offered by you as a statement then with the theory that there is a trust.

MR. WEINBERGER: Exactly, your Honor.

THE COURT: All right.

What I am asking you, do you have any theory, maybe you don't, to explain paragraph A which whatever else it may say didn't state the agreement between the parties?

MR. WEINBERGER: I have a theory. I will admit, your Honor, that is conjecture on my part.

THE COURT: That is all it can be. You weren't there.

MR. WEINBERGER: It seems to me, your Honor, that the contract administrators treated this entire enterprise as a buyer, seller arrangement and they wanted to get paid as quickly as possible, and that was what they were trying to do at all times.

Despite the fact that Mr. Coleman insisted that he was present when the so-called fiduciary relationship existed, he participated in the alleged discussions that took place and they were trying to always move up when they are going to get paid. They didn't want to wait the full period of time. There was the bargaining that was going on between the buyer and seller as to, your Honor, when they were going to get paid. This was not, and I am sure, your Honor, in light of my argument yesterday -- this was not a bargaining between people who --

THE COURT: In other words, your theory is that this is merely a statement that hopefully would hurry them up to make it 60 instead of 90 days?

MR.WEINBERGER: No, sir.

THE COURT: I don't see why he put this paragraph A in here.

MR. WEINBERGER: Your Honor --

THE COURT: He knew, Mr. Coleman knew, because Mr. Anton had told him, that he wasn't going to get paid until the government paid.

MR. WEINBERGER: And they would use the money that was coming from the government to make their payments.

THE COURT: I don't see what function this paragraph has, like whistling in the wind.

MR. WEINBERGER: Also with regard to the closing paragraph C, your Honor will note there is imbedded in paragraph C a threat, if you will.

THE COURT: I know.

MR. WEINBERGER: He says "These payment terms are firm and deferred action in excess of 30 days could result in suspension of further agreements until payment is received."

Your Honor, that is hardly the words of --

THE COURT: I agree with you 100 per cent. Paragraph A is completely inconsistent with the theory of a trust.

I just want to know if you had any theory on which it makes any sense at all.

MR. MITCHELL: Your Honor, Mr. Coleman was questioned on the net 30 day terms on cross examination when he originally testified in this action.

THE COURT: 40 years ago?

MR. MITCHELL: 40 years ago. He testified at length concerning this provision and stated that it was common in Teledyne, it was common for payments to be made by the government in a short period of time, 14 days, and that this was put in there to stimulate Eon, American Marc, to do the paper work, to start the process going, to get the funds. In this further connection, your Honor, this stimulated also the October 11th letter from Mr. Leonard which sheds light on Teledyne's demands and says I told you from the beginning you could only get the payment when we got paid, we would skim off and so on.

THE COURT: This letter was answered on October 11th.

MR. WEINBERGER: No, your Honor. The October 11th letter is answered to this letter.

THE COURT: That is what I say, answered on October 11th.

MR. WEINBERGER: Agreed. The point being, your Honor, is this: Mr. Leonard --

THE COURT: All right. Let us go on putting in evidence. It was my mistake to ask you a question.

MR. WEINBERGER: May I also say, your Honor, one point: Nowhere in Mr. Coleman's testimony at trial is there a discussion of these letters. Whatever Mr. Coleman

said about 30-day terms had to do with the purchase order and nothing else.

THE COURT: All right.

BY MR. WEINBERGER:

Q Did you have occasion at the meeting with Mr. Rouse and Coleman and Leonard to see any other agreement at that time?

A Yes, the inventory agreement.

Q Did you look at it?

A Inventory and tool agreement.

Q Did you look at it?

A Yes, I look at it. I suggested that we see the attorneys to make certain that this is something I could sign.

Q Were arrangements made to see attorneys that day with regard to the inventory agreement?

A Yes, Mr. Leonard called the attorneys and we found that we couldn't see them before 4 o'clock because there was a very sudden requirement.

Q By the way, you earlier mentioned that the attorneys saw the purchase agreement. Did the attorneys see the purchase agreement or the inventory agreement?

A The inventory agreement.

THE COURT: You did say you wanted them to see

the purchase agreement.

A I am sorry, the inventory and tool agreement.

THE COURT: All right.

If you said that,you were mistaken?

THE WITNESS: Yes, sir.

THE COURT: All right.

Q When you went to the attorneys, these were the attorneys for American Marc?

A Yes, sir.

Q How long did you stay there at the attorney's office?

A Something like half an your, three-quarters of an hour.

Q Was Mr. Coleman present?

A No, sir.

Q Were Mr. Leonard and Mr. Rouse with you?

A Yes, sir.

THE COURT: Mr. Coleman had gone back?

THE WITNESS: Yes, sir, he was not there.

THE COURT: He wasn't there.

Q Ultimately the agreement that was signed, the inventory agreement, was it signed at the attorney's office?

A It was signed there.

THE COURT: There is some testimony as to how Mr. Coleman got to the airport on the first trial.

What was that?

MR. MITCHELL: I believe Mr. Walper drove him out there.

MR. WEINBERGER: Oh, yes.

Q Did Mr. Rouse indicate any reason why his attorney was not present at your attorney's office?

A Did what?

Q Did Mr. Rouse indicate any reason why his attorney was not present at your attorney's office with you?

A No, he didn't say anything.

Q He didn't say anything.

Did Mr. Rouse sign the agreement right there?

A Yes.

Q Did he take the agreement with him?

A I imagine so.

MR.WEINBERGER: I have Exhibit 5-A, Mr. Mitchell.

(Pause.)

Q I show you Exhibit 5-A in evidence, Mr. Anton --

MR. VARY: Mr. Weinberger, the exhibit has only been marked for identification, it is not in evidence.

MR. WEINBERGER: It is not in evidence?

MR. VARY: It was only marked for identification.

MR. WEINBERGER: All right.

Q I show you Exhibit 5-A and ask you, sir, if you can identify 5-A? What does that appear to look like to you?

A This appears like the agreement -- it carries my signature -- that I signed.

Q That is a copy, is it not?

A Yes, it is a copy.

THE COURT: A Xerox copy?

THE WITNESS: Yes, a Xerox copy.

THE COURT: Of the tools and inventory agreement?

THE WITNESS: Yes, not inventory, just tools.

THE COURT: Just tools?

THE WITNESS: Yes.

THE COURT: All right.

Q Did I hear you say it does not refer to inventory?

THE COURT: He said it was just tools, not inventory.

A Tht attachment is a list of tools, as I see it.

Q Mr. Anton, may I ask a question.

Can you describe your hearing facilities, please?

THE COURT: He says he is hard of hearing.

MR. WEINBERGER: I want to get an idea how bad.

THE COURT: When he doesn't hear, he will tell you.

Q May I ask another question, Mr. Anton.

Was your hearing condition the same on or around May 12th as it is now?

A Yes, I had an automobile accident in 1955 and I lost hearing.

Q Did you have any conversation with Mr. Rouse regarding the terms and conditions fo this particular inventory agreement?

A I believe I did. I first had a conversation with my attorneys, American Marc's attorneys, and I told them I was concerned with the thought of the inventory being sold to them in accordance with my previous discussion here this morning, and I wanted to make certain that the agreement is not in conflict with that procedure.

I also discussed with Mr. Rouse the idea that I was under the impression that the 75 per cent would be cost, and here it becomes cost as supported by purchase order which eliminates all the costs involved in treating the inventory from receiving to the warehouse, inspections and so on, so forth.

Again, I agreed to it.

THE COURT: You raised an objection but you yielded?

THE WITNESS: Yes.

MR. WEINBERGER: Your Honor, in the event that this document has not been received in evidence up until now, may I offer it in evidence now?

THE COURT: Any objection?

MR. MITCHELL: No objection.

THE COURT: Received.

(Plaintiff's Exhibit 5-A was received in evidence.)

Q Did you ever, Mr. Anton, tell Mr. Rouse in any shape, manner or form or have any discussion as to having title or anybody having any loans on this equipment?

A No, sir.

Q No discussion of that, was there?

A No, none at all.

THE COURT: Mr. Weinberger, isn't that implicit in the first paragraph of this agreement?

MR. WEINBERGER: I am sorry, your Honor. The first paragraph being?

THE COURT: "Eon agrees to sell and Teledyne agrees to purchase."

MR. WEINBERGER: I will tell you why it is not implicit in this case, your Honor. It is not implicit because Mr. Rouse as representing a company fully experienced and doing 50 per cent government contract work knew two

things --

THE COURT: I have your point. You said that before.

Mr. Anton, you said this was not the parts agreement. Having read it again, do you want to change that testimony?

THE WITNESS: It is the parts also, yes.

THE COURT: It is the parts?

THE WITNESS Yes.

THE COURT: All right.

THE WITNESS: I called it inventory, your Honor, it is parts.

THE COURT: Parts is the same as inventory?

THE WITNESS: Yes.

THE COURT: I have read it.

MR. WEINBERGER: Very well, your Honor.

Does your Honor wish to keep my copy of the agreement?

THE COURT: If you want me to.

MR. WEINBERGER: Yes, I am returning the original document that was marked for identification to Mr. Mitchell for his file.

Q Mr. Anton, so we keep a perspective on all of this, we now talked about two agreements.

We have spoken about a purchase order and we have spoken about an inventory agreement that was simultaneously executed with the purchase order.

Did you have occasion to have any knowledge about any other agreement that was entered into with American Marc and Teledyne?

A Yes. That agreement was entered into about March of 1972. It had reference tothe line or spare parts that American Marc had on their shelves for previously manufactured complete units.

Q Did you participate in any of those negotiations?

A No, sir.

Q Do you know when this agreement was entered into--

THE COURT: You are talking now about the March 1972 agreement?

MR. WEINBERGER: I have a copy, your Honor, dated April 3.

THE COURT: All right, April 3.

MR. WEINBERGER: April 3, 1972.

I don't believe it's even been marked for identification.

May we mark it for identification first?

THE COURT: What would be the number?

MR. FELDSHUH: That would be P.

(Defendant's Exhibit P marked for identification)

MR. WEINBERGER: May I ask Mr. Mitchell,if he will, to sipulate that Defendant's Exhibit P for identification is a photostatic copy of the agreement entered into between American Marc and Teledyne dated April 3, 1972 and the signatories were H. F. Coleman on behalf of Teledyne Continental Motors Division and A. M. Hammond on behalf of American Marc Division?

I'm sorry, I withdraw that.

For all practical purposes, your Honor, I'm not sure who signed it on behalf of American Marc Division, but it was signed on behalf of the Division.

MR. MITCHELL: It appears to be M. J. Leonard's signature on behalf of Eon Corporation "(American Marc Division)."

THE COURT: All right. It is an agreement.

MR. MITCHELL: I have no reason to believe this is not what it purports to be.

I would like to have my people look at it. Subject to a motion, I have no objection.

THE COURT: All right.

MR. WEINBERGER: I offer the copy, your Honor, as Exhibit P.

THE COURT: Received.

(Defendant's Exhibit P received in evidence)

MR. WEINBERGER: I will give your Honor a copy and I will give Mr. Anton a copy (handing)

THE COURT: Did the witness have anything to do with this? The witness said he had nothing to do with this.

MR. WEINBERGER: I agree, your Honor.

I just would like the witness to describe the nature of that agreement as to what it is intended to do as written in there for your Honor's edification.

MR. MITCHELL: I think it speaks for itself.

If the witness indicated he had nothing to do with it, he can't add to what it says on the face.

THE COURT: Let's use the witness for what he can tell us, not for surmising documents.

THE WITNESS: That agreement counsel made. The discussion that we had had lunchtime on May 12th, 1971 with Mr. Rouse, where we spent all of luchtime discussing the main point, which was the selling of the American Marc line inventory blueprints and so on, so forth, complete

balance of American Marc to Teledyne.

THE COURT: You participated personally in this discussion?

THE WITNESS: I discussed it with Mr. Rouse.

THE COURT: You did have something to do with the negotiation of this agreement?

THE WITNESS: I didn't see the agreement then. I discussed it with him. Mr. Rouse said he would do his best to accept that thought.

Q. This has nothing to do with the generator set, this is the product line of the company?

A Yes, sir.

Q For the record, briefly, this is a consignment agreement, is it not?

A Yes, sir.

Q This agreement purports to sell on consignment to Teledyne the inventory of the product line of American Marc, does it not?

MR. MITCHELL: Again I will object.

THE COURT: What is the point of all this? I can read the agreement and tell you what it purports to do.

MR. WEINBERGER: I agree, your Honor, but the surrounding circumstances --

THE COURT: Get to the surrounding circumstances. You tell me what it purports to show and ask him about the surrounding circumstances.

MR. WEINBERGER: All right.

Q Was this agreement part of the contemplation of you and the board of directors in the winding down of the business of American Marc?

A The most important part.

Q I see.

What was the value of the inventory that was the subject of this particular agreement, do you know?

A The spare parts inventory was valued at approximately nine hundred some odd thousand dollars.

THE COURT: $900,000?

THE WITNESS: Yes, sir.

A And the tools and blueprints and everything else that went along with it was one half a million dollars, making a total of $1,400,000.

Q Was that product line inventory and equipment shipped to Teledyne?

A Yes, sir.

Q Do you know approximately when, approximately?

A Oh, I imagine shortly thereafter.

THE COURT: In other words, the early part of

April?

THE WITNESS: Yes, sir, something like that.

THE COURT: All right.

THE WITNESS: Maybe the early part of May. It had to be crated and packed and so on and so forth.

Q The inventory, the product line inventory, were they all shipped out to Teledyne before you had any meeting with Mr. Kotts or Mr. Letts or any Teledyne representative in New York?

A Yes, sir.

THE COURT: This was all done before the explosion erupted, right?

THE WITNESS: Yes, sir.

Q Was the shipment of the inventory, which is the subject of this agreement, done before any money was taken from the California bank?

A Yes.

Q It is a fact, then, that this was inventory that belonged to American Marc, was it not?

A Yes, sir.

Q You had not been paid for that million some odd dollars of inventory?

A No, sir.

THE COURT: What do you mean, had not been paid

for it?

MR. WEINBERGER: Had not received any money yet.

THE COURT: When?

Q Did you receive any money at the time that you had taken any money out from the California account?

A No.

THE COURT: Instead of all this hyperbole when, if ever, was this inventory paid for?

MR. WEINBERGER: It was never paid for, your Honor. To the best of our knowledge, it was -- it is still in the possession of Walterboro.

THE COURT: Why haven't you claimed this as an offset then?

MR. WEINBERGER: That I think is a question, your Honor, that was addressed for the counseling of Eon Corporation by their attorneys who represent them in the bankruptcy proceedings.

They may have felt that perhaps under the circumstances that it would impede the confirmation of their plan of arrangement, for whatever it was worth.

MR. MITCHELL: Your Honor, may I point out that the original answer by Eon Corporation has a counterclaim in it?

MR. WEINBERGER: For $32,000 which has nothing to

do, your Honor, with that inventory.

Q Incidentally, Mr. Anton, what does the $32,000 counterclaim in these proceedings refer to?

A Teledyne Walterboro owed Eon Brooklyn $32,000, payment for control boxes which were made in accordance with the purchase order. On the purchase order we definitely stated that we do not want an offset against the pa[illegible] to or from American Marc because we were completely separate companies, operating separately.

MR. WEINBERGER: May I for the record call to your Honor's attention, of course, that we are not trying here Eon Corporation's counterclaim.

THE COURT: That's been taken by the bankruptcy?

MR. WEINBERGER: Originally it was inserted as a counterclaim when the commencement of the litigation here began because Eon Corporation had not yet filed its petition in Chapter XI.

THE COURT: This inventory was not asserted as a counterclaim?

MR. WEINBERGER: Not in this case, no.

At that time, your Honor, I don't think we were concentrating on the problems of asserting a claim on behalf of the corporation of that magnitude; at that time we were concentrating on the defense here.

It was anticipated, I believe, your Honor, that there might be some bankruptcy proceedings at that time.

THE COURT: Everybody seems to agree to that except Judge Bauman.

MR. WEINBERGER: The point of all of this is to show the intention of the parties to treat one another as debtor-creditor commercial relationships and nothing greater than that, no fiduciary relationship whatever.

MR. MITCHELL: You are referring to the agreement which you just marked?

MR. WEINBERGER: I'm referring to the agreement that was just marked as well.

THE COURT: P.

MR. MITCHELL: I did not understand. You said "as well."

MR. WEINBERGER: As well as the testimony.

THE COURT: Everything that's gone on since luch at least is directed to this point.

MR. MITCHELL: Your Honor, I was questioning whether Mr. Weinberger was distinguishing between the relationship established by this agreement and the relationship established by any other agreement.

THE COURT: No, this agreement is further evidence of the point he is making, which point I don't think you

really need to make.

It is conceded that this wasa purchase agreement and the only issue is, as part of it, was there security called for in the shape of this account. There's no question that this was an arm's length transaction between them, that they are not in bed with each other in any other respect, and that fact is entitled to be weighed in deciding whether or not there was a trust or what is necessary about it.

I don't see you have to prove it. You start off with that assumption.

MR. WEINBERGER: Except, your Honor, that we are talking about a period of time after May 12th.

THE COURT: I understand. These letters, which could refer to a trust, if there was a trust, may seem to be pertinent. The circumstances that they went on and had other contractual relations does not seem to me to prove much one way or the other.

MR. WEINBERGER: Let me ask a question in response, rhetorically, if I may. It seems to me that if American Marc is owing Teledyne money and they say, "Listen, we are very concerned about how you are going to pay us and we want to be secured," one of the things they could have done even in April of 1972 is to keep this inventory,

as security for the payment of a debt.

THE COURT: Wait a minute.

Who is going to keep what inventory?

MR. WEINBERGER: Teledyne could have insisted that this million and a half dollars worth of inventory that was being sold to them on consignment should have taken a different form if they were concerned about being secured.

3a pm

THE COURT: But that is why I wanted to know whether it was paid, because if they had paid it without any question, then it seems to me you would have a point.

MR. WEINBERGER: Apropos of your point about payment, let me address a question to the witness.

Q With regard to the inventory agreement executed on May 12, 1971-- do you recall that agreement, Exhibit 5A in evidence-- did Teledyne pay any moneys to American Marc for that inventory?

A $196,000 for the material and $25,000 for the tooling--

MR. WEINBERGER: May I call to your Honor's attention that was the testimony of Mr. Rouse and Mr. Coleman?

THE COURT: Okay, you can make your argument based on that.

Q And the payment by Teledyne of approximately $196,000, I say--

A $224--

Q Did that payment by Teledyne to American Marc take place after May 12th, 1971?

A Yes.

MR. WEINBERGER: Will Mr. Mitchell stipulate the payment was after May 12, 1971?

MR. MITCHELL: What is the question?

THE COURT: Was the payment for the inventory after May 12, 1971?

MR. MITCHELL: Of course I will stipulate.

MR. WINBERGER: May I just say, your Honor, that the point of all of this testimony and the documentation is that taken in the aggregate --

THE COURT: You said that and I just said it too. Don't use the witness as a sounding board for summation. Get information out of the witness and sum up later.

Q Mr. Anton, after this period of time, did you have anything to do with the administration of the Amer. Marc-Teldyne transaction?

Were you involved in any way in the administration of that transaction?

THE COURT: At what time?

Q After May 12, 1971.

A Yes.

Q To what extent?

A Well, that started in March of 1972, when Mr. Leonard was not a signatory any more, he was not an officer any more and so he was forwarding to me for signature DD1195s and checks.

Q Before that date, then, you had nothing to do

with the administration of that arrangement?

A That is correct.

Q Did you have occasion after May 12, 1971, to get any information from California with regard to the status of the American Marc Division, financially?

A Sporadically, yes.

Q I show you Plaintiff's Exhibit 27 in evidence, Mr. Anton; do you recognize that exhibit?

A Yes, sir.

MR. WEINBERGER: For the sake of your Honor looking at it, I will just give you my copy, which is the only copy I have (handing).

Q Mr. Anton, when did you first see Exhibit 27?

A Some time in the middle of July, I assume.

Q That was --

A July 1971.

Q Do you know where you saw it?

A Yes. This came in to us from Mr. Walck, at our request.

Q What is that exhibit?

A This shows a projected operating statement with reference to the one and a half kilowatt contract.

Q What does it show in connection with the contract?

A Well, if you want to show the bottom line, it

shows allunliquidated payments would be liquidated and that-- oh, roughly speaking, there would be a manufacturing profit of $120,000, adding it up fast.

THE COURT: Manufacturing profit of what?

THE WITNESS: Approximately $120,000.

You have to add this line, your Honor, right here (indicating)

Well, it is more, it is about $160,000. It is nine times fourteen plus nine.

Q Do you recognize whose handwriting that is on that financial statement?

A I didn't hear you?

Q Do you recognize whose handwriting is on that?

A This is Mr. Walck, the controller of American Marc.

Q When you saw that statement, were you with any of the directors?

A I assume that I showed this to the other directors, yes, because it was gotten because it was requested of htese people.

THE COURT: I take it what you are telling me is that you have no present recollection of showing it to the other directors but your normal practice would lead you to believe that you did?

A Especially since I know the directors were concerned with that contract and the operation of the division.

Q Is it not a fact, Mr. Anton, that you never saw Mr. Rouse's letter addressed to Mr. Leonard, dated May 13, 1971?

A I saw it at the time that Mr. Mitchell came to search, or whatever the name is --

Q Prior to that time you had not seen it?

A No, sir.

Q Is it not a fact, sir, that prior to the litigation and these proceedings that you never saw Mr. Leonard's letter to Mrs. Guy?

A That is correct.

Q Did you see any of the correspondence that refers to the method of payment that was introduced into evidence this afternoon prior to the preparation of the litigation here?

A No, sir.

Q None of the copies ever came to you? Is that correct?

A What?

Q None of the copies wereever sent to you, were they?

A No, sir.

THE COURT: Mr. Mitchell doesn't have any objection to these leading questions --

MR. WEINBERGER: I am just trying to shorten the questioning, your Honor.

Q There was some question, Mr. Anton, as to whether or not the payment arrangement set forth in Mr. Rouse's and Mr. Leonard's correspondence came from your safe?

THE COURT: He has satisfied me on that.

Don't go into that.

Q Did there come a time--

THE COURT: In other words, I am satisfied with the witness' testimony that it did not come from his safe.

MR. WEINBERGER: Very well, your Honor.

Q Did there come a time, Mr. Anton, in 1972, after you had taken over control of the bank account in California, that you had occasion to remove the funds from the bank account in California to New York?

A Yes, sir.

Q What was the reason that you removed the bank account from Califronia to New York?

A There was no reason to keep it there further because it was inactive. I am referring now to the successor account to the original account.

t3b pm

Q Do you recall when you did that, sir?

A Some time in May of 1972.

Q I call your attention, if I may --

MR. WEINBERGER: Your Honor, it is the extracts of the corporation minutes of Eon Corporation and I believe they are marked collectively as Plaintiff's Exhibit 20.

May I have Plaintiff's Exhibit 20, Mr. Mitchell?

(Pause.)

MR. MITCHELL: I think you are referring, Mr. Weinberger, to Exhibit 35.

Q Mr. Anton, I call your attention to [illegible] of the minutes of August 17, 1971.

MR. WEINBERGER: Mr. Mitchell, you will concede that the extract marked as part of Exhibit 35 is an accurate copy of the corporate minutes?

MR.MITCHELL: I have not compared them word for word but I have no reason to doubt they are. If you want to compare them yourself and represent that they are, I will accept it.

MR. WEINBERGER: We were ordered to give you the minutes to compare them.

THE COURT: Well, you say they are, and if anyone wants to challenge them, they can.

Q Was not, Mr. Anton, the taking of control of the

funds in California and bringing them to New York consistent with the directors meeting of August 17, 1971?

MR. MITCHELL: I object, your Honor. He is referring to a written document and that is something for the trier of the fact to determine. He is comparing a written document and asking if something else was consistent with it. We have what that other thing was and the trier of fact can determine if that was consistent with the language.

THE COURT: He may answer.

A It says here consistent with the phasing down of the American Marc Corporation I had proposed to move the funds from California to the Bankers Trust Company account of American Marc. I added the American Marc, because it doesn't state here, but it was the American Marc account.

Q And this was determined, was it not, even before a single unit of generators was shipped by Teledyne?

A Yes, sir.

Q There of course came a time, after you removed the funds from California and brought it to New York, that a problem arose with Teledyne?

A Yes, you are right, but that means that the moving of those funds from California to New York happened, then, in June, not in May. You just refreshed my memory, because of this statement.

Q When the problem arose with Teledyne how did that come about, do you know? What were the surrounding circumstances that came to your attention?

A The secretary of Mr. Leonard had made to me at the beginning of April a check for $216,000 to be signed and returned to her for the purchasing of a cashier's check for payment to Teledyne.

THE COURT: April of what year?

THE WITNESS: April of 1972.

A Another check toward the end of the month -- toward the end of the money another check came in for the same purpose and I had it countersigned by Mr. Waller, there were two signatures necessary, and I sent it back to the secretary of Mr. Leonard.

Before she had a chance to purchase a check, a cashier's check, for this second check, in April, I called her and told her to hold it up. The reason for that was that I had received a call from the financial people of DECASA, in California, saying they were unable to contact Mr. Leonard and some Teledyne people had showed up and informed him that we were very far behind in payment and that they were going to stop shipment.

I then directed the check to be held up and returned to me. In the meantime, Mr. Leonard had returned and I told

him the same thing and asked him to return the check to New York. He tore out the signature and returned the check to New York, the $216,000.

THE COURT: I take it you are not going to be able to finish with Mr. Anton in the next five or ten minutes?

MR. WEINBERGER: No, sir, because we have some further areas to explore, going into the surrounding circumstances and some of the testimony that has been elicited on the direct case against the defendants.

THE COURT: Just for my information, how much further do you have to go with Mr. Anton?

MR. WEINBERGER: I don't think more than perhaps a half hour, your Honor.

THE COURT: How long do you think you will need on cross?

MR. MITCHELL: I would say, your Honor, probably a half a day.

THE COURT: Half a day?

MR. MITCHELL: That is correct.

THE COURT: Probably we will finish at lunchtime, more or less, with Mr. Anton.

Have you decided what further witnesses you will need?

MR. WEINBERGER: I think we were going to make

that decision after we had Mr. Anton's testimony and cross completed, to see whether or not it was required that further --

THE COURT: You will be prepared to go on after lunch if he is completed before lunch?

MR. WEINBERGER: Probably.

I thought, your Honor, that after Mr. Anton Mr. Mitchell would complete his cross examination and then insert the rest of the case on the question of costs, et cetera.

THE COURT: Do you want to do that?

MR. MITCHELL: Yes, your Honor.

THE COURT: Then Monday you will finish with Mr. Anton and Mr. Mitchell will resume with his case and you ought to be able to finish that on Monday?

MR. MITCHELL: I would certainly think so, your Honor.

THE COURT: Then Monday evening you will tell me what you want to do?

MR. WEINBERGER: Yes, your Honor.

THE COURT: Are you going to have any rebuttal?

MR. MITCHELL: It is hard to say, your Honor. Right now, I think not, but that may be subject to change.

THE COURT: Then we will probably finish Tuesday,

A No, sir.

Q With regard to the so-called banking arrangements with Teledyne, was that subject discussed with the board of directors at any board of directors meeting after May 12, 1971?

A No, sir.

Q Did you ever discuss it with Mr. Srybnik outside of any board meeting?

A I would say not, but I may have indicated that subsequent Mr. Leonard had told me that the same arrangement, a Canron, that was done in October of 1971 would obtain.

Q Did you discuss it with Mr. Podell at any outside point?

A No, sir, I don't remember each discussion with each director.

Q But you know you did not discuss any banking arrangements with them?

A No, no banking arrangement, no.

MR.MITCHELL: I will object, your Honor. He stated he didn't recall any discussion.

THE COURT: That is correct. He said he might have, but he didn't recall any.

Q You mentioned a Canron, C-a-n-r-o-n, arrangement. When did that conversation take place, if you recall?

A In late 1970 or, let's say, October, November, 1970, or before. I don't know exactly. In 1970.

Q What happened in 1970, Mr. Anton?

A I believe I testified to that already, that the bank account of the California bank was attached by some creditor. Thereafter Mr. Leonard decided to deposit a large amount of money in a Bank of America account he had opened for that purpose. Mr. Leonard, by that arrangement, had, therefore, control of the funds, and that was his purpose, so that he could pay some of the creditors not in a preferential way, which would have obtained if they attached the account.

Q Were you aware of that situation?

A Yes, sir.

Q Did there come a time that you became aware of any similar arrangement with Teledyne?

A As I said a few minutes ago, it was some time, I think, in August or September, somewhere in there, of 1971, when coming back from conferences with Saunders, and now I know, Anderson, he told me that most of the situations that were to be cleared up were technical but that also he indicated to them that he would use it, to tell it to me, the Canron situation.

Q Who is the "them"?

THE WITNESS: No.

THE COURT: All right.

Q At the time you had this meeting, Mr. Anton, what was in your mind the purpose of having that meeting?

A The meeting was very cordial and Mr. --

THE COURT: What was the purpose of having the meeting?

THE WITNESS: The purpose of the meeting was the information that Coleman conveyed to me, that we owe them a lot of money.

Q Yes.

What was the purpose of you meeting with them? You knew you owed them money.

A Well, I knew we owed them money. I did not know exactly how much.

I told them that the total amount of money in the American Marc account was approximately $9,000. I told them that the past was the past and I was sorry that such a thinkg had occurred, and that I would try to see what we could do to pay them in some way or another.

Q Is it not a fact then you weretrying to settle up on a debt?

A Yes, sir.

Q Did you have any further meetings with any other

see.

Q I show you Modification 9, Exhibit 4A, and point out the reference tothe May 25th letter contained in th opening paragraph (handing).

A Yes, sir.

THE COURT: May I see that?

THE WITNESS: Certainly.

(Handing)

THE COURT: Is there testimony as to how this came into being?

MR.MITCHELL: Your Honor, I will get into that.

A These were part of the papers that were left, as I explained already, by Mr. Walck and Mr.Leonard when they came in Christmas of 1970.

They had brought with them a substantial number of documents. Mr. Todres was there, and they went over those documents and decided they would take back with them whatever document they needed.

They left there, I don't know, two, three boxes, and those boxes were given to you.

Q Do I understand correctly, Mr. Anton, you said in December of 1970, and I believe you mean December of 1971?

A Yes, you are absolutely right.

Q Do you have a recollection of having seen the

document to which I just referred you?

A Absolutely not.

Q YOu did not see i --

A They were left there and I gave you the boxes and I never looked in those boxes and don't know what was in them.

lb am

Q If I understand correctly, these were boxes at Eon Corporation and were not contained in the American Marc files, which were later shipped from California?

A No, sir -- I don't know that. Al I say is that I gave you boxes that were left there, documents -- I believe two or three boces -- that were left there by Mr. Walck and Mr. Leonard when they came in Christmas of 1971, and I said that before to you a couple of times.

THE COURT: Do you have any present recollection of seeing documents ever before this trial?

THE WITNESS: No, sir, not that I know. I have no recollection.

THE COURT: Was it shown to you at your deposition?

THE WITNESS: It is entirely possible. I don't remember that either.

MR.MITCHELL: It was, your Honor.

Q I also show you Plaintiff's Exhibit 9, a letter dated October 11, 1971, from Mr. Leonard to Mr. Coleman, and ask you if you recollect having seen that before, other than at your deposition?

A I have not.

MR. WEINBERGER: May I see that exhibit, your Honor?

THE COURT: All right.

(Pause.)

Q How can you be so certain, Mr. Anton, that you had not seen this? Can you state from looking at these documents right now that had you seen it you would recollect at the present?

A Well, I am positive, because I would have seen them I would have had some idea that some arrangement existed and I would have acted accordingly.

Q By "acted accordingly," what do you mean?

A Well, there is an instance -- I don't know if the dates are correct, before or after -- where I proposed that the Bank of America could be moved to the New York Bank of America, American Marc, subsidiary of Eon account.

There is another instance where I saw the corporate attorney, Mr. Marty Frank, and I ask him what was his opinion about transferring the Banker's Trust American Marc to an Eon account, because it would entail bookkeeping entries, and so on and so forth, being we kept separate books for each division, and I did not mention that to Mr. Frank -- if I had known the existence of those things I certainly would not have hidden them from my own attorney.

Q And I refer you, Mr. Anton, to Plaintiff's Exhibit 8 for identification, which is a letter dated May 25th,

to Mrs. Guy, from Mr. Leonard --

THE COURT: You said for identification?

MR. MITCHELL: I am sorry, it is in evidence, your Honor.

THE WITNESS: Yes, this is a letter I have already said I haven't seen.

Q Mr. Anton, did there come a time in which Teledyne indicated to Eon Corporation, namely, yourself, that it was not going to ship any further geneator sets to the government because of non-payment?

A The first time I heard about that was somewhere near the 8th or 10th of May --

Q My question is, did there come a time in which you learned that?

A Yes.

Q Did you have occasion to write a telegram to Teledyne saying "Our damages will be great,"or something to that effect, "if you stop shipping"?

A Yes, sir. That was in response to Mr. Coleman's wire.

Q Would it be your normal practice to keep an office copy of such a telegram?

A When I do something in Brooklyn, usually there are copies in the file.

Q In the Eon files as opposed to the American Marc files?

A That is subsequent to the time when Mr. Leonard was out of the picture, yes.

Q Did you also have occasion in approximately mid July to write a letter to the Teledyne people, certified mail,return receipt requested?

MR.FELDSHUH: What year?

MR. MITCHELL: In July 1972.

Q With regard to a proposal?

A May I see that?

Q I am asking you if you recollect sending --

A I recollect something, yes.

Q Some letter that was sent certified mail return receipt requested?

A I think I recollect something like that, yes.

Q Would you have put the return receipts in your file upon sending such a certified letter?

MR. WEINBERGER: Your Honor, I am going to object to the relevancy of what took place in July of '72,

after all activities had already been had.

THE COURT: Overruled.

MR. WEINBERGER: May I finish the point, your Honor? It is conceivable that all of these correspondence may have taken place with counsel being involved in that and may or may not be in counsel's file or anyplace else. This is long after the events.

Q I believe you testified, Mr. Anton, that when you came back from California on May 12th you brought with you certain documents which had been executed out there.

Did you bring back with you the inventory agreement, what we referred to as the inventory agreement, and the purchase agreement, the subcontract purchase agreement?

A Yes, I brought back a copy of the purchase order and the agreement for inventory and tools.

Q Do you recall what you did with them when you got back to New York?

A I put them in my safe, yes. I gave them to the office and they put them in the office safe. I have no personal safes.

Q There came a time, did there not, Mr. Anton, when you or your attorneys transmitted to our office copies of some papers, the cover page of which is entitled "Agree-

ment Teledyne Industries, Inc.," which you sent from your office?

MR. WEINBERGER: I object, your Honor, to the statement "which you sent from your office".

I would like to understand that.

MR. MITCHELL: Mr. Anton's statement is "I did not get it when I was over at the office. He subsequently sent it to me because he found it later."

Q Perhaps I can refresh your recollection.

A Can you pinpoint the time?

Q I show you what has been marked previously, Mr. Anton, at a deposition as Plaintiff's Exhibit 20 and I think various documents in there were labelled A through M. I have marked this Plaintiff's Exhibit 51 for identification.

I ask you if you have seen that before? Of course, this being a copy and not the original.

A This is the famous Exhibit 20 which --

Q Mr. Anton, is this what you sent me?

A What I sent you?

Q Yes.

A I don't really recall exactly which document was sent because it was sent by the office. They find the file, they made a copy and they sent it to you. I did not peruse

every document.

Q You have no reason to believe that this was not the document that was sent to me?

A No, sir, I have no reason to believe either yes or no.

THE COURT: What were you going to say about the famous Exhibit 20?

THE WITNESS: This is the Exhibit 20 which at the deposition I was shown a number of documents and then they asked me, were these in your safe? And I said yes, they were in the safe, but they were in the safe because Mr. Mitchell had left some documents on the desk that he was using for the search and somebody had put them in the safe, maybe even clipped them, I don't know.

Q Mr. Anton, I direct your attention --

MR. WEINBERGER: Would the record indicate that Mr. Anton by using the word clipping is indicating a concept of stapling, your Honor, so that the record is clear what he means by clipping.

THE COURT:I didn't know that.

Do you agree to that?

MR. MITCHELL: I agree with that.

THE COURT: All right.

THE WITNESS: Could I answer that further?

THE COURT: If you haven't answered the question.

THE WITNESS: I don't know whether he is asking me about that agreement, the front agreement, which is the agreement -- the agreement for spare parts, the consignment agreement.

Q Let me ask you, Mr. Anton, and I will refer you to the exhibit. I will show you my copy of it.

There is some handwriting, what appears to be a cover page which says, "Agreement Teledyne Industries, Inc.."

Do you know whose handwriting that is?

A I don't really know, but it could be Mrs. Antons.

Q Do you recognize your wife's handwriting?

A It looks like it. I don't say it is exactly like her, but it looks like it, yes.

Q Is Mrs. Anton the office manager or was she the office manager at the time?

A Yes, sir.

THE COURT: What --

THE WITNESS: I was going to explain about that.

Q I direct your attention, Mr. Anton, to certain receipt forms which have been marked on the page as Exhibit 20[illegible]t the deposition, and I ask you, Mr. Anton, if you recall having seen these receipt forms before?

A I most likely saw the receipt form. I don't know to which communication you refer to.

Q Would you look at them, please, Mr. Anton?

MR. WEINBERGER: Your Honor, may I ask Mr. Mitchell, was that 20B or 20D?

MR. MITCHELL: B.

A To me, very quickly looking, they refer to receipts of the wire which you just asked me about that I sent to Mr. Coleman. Maybe not because-- it could be.

Q I refer you, Mr. Anton, to the writing at the top of the page, and I ask you if that is your handwriting?

A Yes.

Q Would you read for the Court what it states at the top?

A "Copy of this proposal and letter to FNCB," which

is First National City Bank..

"Also sent on July 12 to Saul Waller, Simon Srybnik, Odif Podell and Marty Frank."

Q Are those your initials at the bottom, Mr. Anton, at the bottom of what you were just reading --

A I can't hear you.

THE COURT: Those initials right there, are they yours?

THE WITNESS: Yes, sir, NA, Nick Anton.

Q The date on the receipt is July 12, 1972, is it not?

A Yes, sir.

Q Do you recall that these are the return receipts which you put in your file after sending out the proposal?

A Well, I usually would not do that. I would give them to the office, Mrs. Anton.

Q To be put into the file?

A Yes.

THE COURT: What proposal? I lost track.

MR. MITCHELL: This is, your Honor, in July of 1972. This refers to a settlement proposal.

THE WITNESS: Yes.

Q I direct your attention, Mr. Anton, to the immediately following page in the exhibit, which is Plaintiff's

Exhibit 20C at your deposition, and ask you, Mr. Anton, if that is a copy of the telegram which you earlier today referred to?

A Yes, sir, that's a telegram to Homer Coleman, signed by myself.

Q It does not appear, at least mycopy does not appear to have an actual signature.

Would this be your file copy?

A Well, I don't have a file in my office. Therefore, this file must have come from the office file, which means that-- most likely this was kept together with the other material.

Q You are referring to the Eon office file, is that correct?

A Yes, sure.

Q I direct your attention, Mr. Anton, to the writing at the bottom, not the court reporter's writing, just above that.

Would you read what that says, Mr. Anton?

A "Sent 7/18/72, 3:10 p.m., confirmation and verification of delivery."

THE COURT: Whose handwriting is that?

THE WITNESS: It looks like Mrs. Anton.

Q There are some initials, Mr. Anton --

THE COURT: Is that her initials?

THE WITNESS: It looks like-- it may be somebody else's.

Q It looks to me--

A It is a lady's writing.

Q -- like an NA.

THE COURT: What is Mrs. Anton's first name?

THE WITNESS: Bernice. It doesn't look like a B.

Q Doesn't that look like an NA, Mr. Anton?

A It certainly is not my handwriting. It is the signature of -- I don't know if it is. It appears to be -- whatever it is.

THE COURT: It looks like Mrs. Anton's handwriting?

THE WITNESS: HA, something like that.

MR. WEINBERGER: Your Honor, may I object to the relevancy of this whole line of questioning where the documents that are involved on its face came from New York? I believe that there was no question as to Mr. Anton's testimony that after Mr. Mitchell collated the papers together, that they were stamped by somebody in his office and stapled.

THE COURT: Overruled.

Q I refer you, Mr. Anton, to the document which is marked at the bottom Exhibit 20D at the deposition which

appears to be a signed copy of what we have referred to as the inventory agreement.

Do you recognize this document as such?

A Yes, sir, that is the one I signed in California on May 12th.

Q Is that the one you took back with you to New York on that day?

A That I really don't know. It is a copy of that agreement.

Q It has your signature on it, doesn't it?

A Sure, every copy would have my signature on it.

THE COURT: It is a Xerox?

THE WITNESS: It is a Xerox, yes.

MR. MITCHELL: Your Honor, for the record, this exhibit which I am producingwas Xeroxed for me. I never had the original. So this would be a Xerox of the original or a Xerox at the Eon offices.

THE COURT: I see.

THE WITNESS: It is entirely possible the copy I had was originally signed by me. That I don't know.

THE COURT: I see.

Q I refer you, Mr. Anton, to the document, Plaintiff's Exhibit 20F on the deposition, which appears to be the original subcontract purchase order M-1257, and I ask

you if you recognize this as such?

A Yes, sir, I do.

Q Is it possible, Mr. Anton, that this is the copy of the purchase order that you brought back with you from California on May 12th?

THE COURT: What he means is, is it possible that it is a Xerox of the copy of the purchase order?

MR. MITCHELL: That is correct.

A It could very well be. It is a copy of the original purchase order.

MR. MITCHELL: With the Court's indulgence, I will read from Mr. Anton's deposition.

Some of this has been read before and that's why I beg the Court's indulgence.

Upon reviewing the transcript on a later occasion, I read that portion which was not brought to the Court's attention earlier.

Starting at page 217, Mr. Anton, of your deposition:

MR. WEINBERGER: Can you hold on for one moment, Mr. Mitchell?

MR. MITCHELL: Certainly.

(Pause)

MR. WEINBERGER: Your Honor,before we get to Mr. Anton's deposition-- all right, never mind.

I withdraw that.

What page?

MR. MITCHELL: 271.

"Q Mr. Anton, we have received from Eon stapled together 49 pages with a cover page entitled "Agreement, Teledyne Industries, Inc." and I will show you the document just as we received it from Eon, and ask you if you can identify this document which appears to contain a number of letters, agreements, some purchase orders, and the like."

THE COURT: What page is that?

MR. MITCHELL: 217, your Honor.

"(Handing document to witness)

"A With the exception that I have not counted the pages, this is a copy of the agreement that we kept in our safe in the office and when Mr. Mitchellwa there we just didn't know it was filed on a different shelf. This was located immediately after he left because he asked." --

THE WITNESS: Excuse me, your Honor, could he

come a little closer? I can't hear him.

THE COURT: All right.

"A With the exception that I have not counted the pages, this is a copy of the agreement that we kept in our safe in the office and when Mr. Mitchell was there we just didn't know it was filed on a different shelf. This was located immediately after he left, because he asked for it, and we made a copy and mailed it to him."

Then follows a colloquy concerning marking by letter the individual documents.

Then on page 219, line 9:

"Mr. Lang: Mr. Anton I think has described it as a document in a safe of Eon and which describes the agreement between Eon and Teledyne.

"Mr. Weinberger: Is that on the record as such?

"Mr. Lang: It is, and certain other documents."

MR. MITCHELL: Continuing on to page 222 --

MR. WEINBERGER: Your Honor, I don't think that that is a fair continuation, because the very next question that is asked is a reference to the so-called copy of the telegram.

THE COURT: Where is that?

MR. WEINBERGER: The very next question, right after Mr. Mitchell read my colloquy with Mr. Lang, the

next thing is:

"Mr. Mitchell: We will mark as Plaintiff's Exhibit 20A Telex or telegram addressed to American Marc, Attention M. J. Leonard," et cetera.

MR. MITCHELL: To obviate any problem, your Honor, I will read the whole thing.

MR. WEINBERGER: The point I wish to make--

THE COURT: Don't argue now. Make your points later.

MR. WEINBERBER: The point --

THE COURT: You asked him to read the whole thing and he is doing it. Please sit down and don't argue as he presents his case.

MR. MITCHELL: Following line 16, page 219:

"Mr. Mitchell: We will mark as Plaintiff's Exhibit 20A Telex or telegram addressed to American Marc, attention Mr. J. Leonard, dated June 28, 1972, from Eon Corporation, Pearl Street, Brooklyn, New York, being a one-page document,"

And then it is marked.

"Mr. Mitchell: We will mark as 20B a photocopy, one-page photocopy, of four postal receipts," which are marked as 20B.

"Mr. Mitchell: We will mark as Plaintiff's

Exhibit 20C a copy of a one-page telegram unsigned from Nicholas Anton, President, Eon Corporation, to Mr.Homer Coleman, Vice President, Teledyne Continental Motors."

There is writing on the same page which states: "Sent July 18, 1972, at 3:10 p.m. Confirmation and verification of delivery."

And then there appears to be initials below, and then it is marked.

"Mr.Mitchell: We will ask that as Plaintiff's Exhibit 20D a five-page document which what appears to be attached Exhibit A be marked. It is entitled 'Agreement' at the top which is a copy of an executed inventory agreement dated May 12, 1971."

Then that is marked.

"Mr. Mitchell: I ask that a one-page document be marked for identification as Plaintiff's Exhibit 20E. At the top of this document it states: 'DAAKA1-69-B-7962,page 22 of 88."

Then this is marked.

"Mr. Weinberger: Would the record please note that Exhibit 20 are copies or purported copies of documents being described and marked for identification.

"Mr. Lang: I don't know what you mean by copies. They are not purported copies."

MR. WEINBERGER: I don't know that. I don't know where they came from.I don't know who made these copies.

"Mr.Mitchell: As Plaintiff's Exhibit 20F I ask that the reporter mark a document of eight pages dated May 11, 1971 appearing to be a purchase order of American Marc Division.

"For the record, these eight pages appear -- seven of these pages are on American Marc stationery, one page indicates attachment and that is on the eighth page."

Then that is marked.

"Mr. Mitchell: I ask there be marked as Plaintiff's Exhibit 20G for identification a one-page letter dated May 25, 1971, addressed to Bank of America, attention Mrs. Fern Guy.

"There doesn't appear to be any signature or space for signature on this page. For purposes of the record, this doesn't appear to be a complete letter but merely the first page of a letter."

Then that is marked.

"Mr. Mitchell: Next is Plaintiff's Exhibit 20H for identification,

"Will the reporter mark a three-page letter dated September 14, 1971 from Mr. J. Leonard to Mr. Homer Coleman."

Then that is marked.

I think, your Honor, there is a mix-up on the pages here. My copy 224 should be 223 and 223 should be 224.

"Mr.Mitchell: I ask that a three-page letter dated October" --

THE COURT: That is 224?

MR. MITCHELL: Yes. The pages were reversed. I am going to what is marked as 224, which is actually the next succeeding page, 223.

"Mr. Mitchell: I ask that a three-page letter dated October 11, 1971 also from Mr. Leonard to Mr. Coleman be marked as Plaintiff's Exhibit 20-I for identification."

That is marked.

"Mr. Mitchell: Next, we have a two-page letter from Mr. W.A.Anderson addressed to American Marc Division, Attention Mr. M. J. Leonard, dated October 9, 1971. This shall be marked as Plaintiff's Exhibit 20J for identification."

Then that is marked.

"Mr. Mitchell: Next there is another two-page document on the American Marc purchase order letterhead addressed to Teledyne Continental Motors dated October 11, 1971, and indicating change notice. This should be marked

Plaintiff's Exhibit 20K for identification."

THE COURT: Was that the change order you showed me earlier?

MR. MITCHELL: The Modification 9, your Honor, which refers to setting up the Bank of America account.

MR. WEINBERGER: Wait a minute, your Honor --

THE COURT: Now you are going back to page 223?

MR. MITCHELL: That's right, which is in fact 224.

THE COURT: Proceed.

"Mr. Mitchell: Next there is a two-page letter dated July 8, 1971, from Mr. M. W. Saunders to American Marc Division, Attention Mr. J. Leonard. This should be marked as Plaintiff's Exhibit 20L for identification."

MR. MITCHELL: Then it is marked.

3b am

"MR. MITCHELL: The next document is a 19-page document apparently undated signed by Mr. M.W. Saunders for Teledyne Continental Motors and an empty signature space for the American Marc Division of Eon Corporation. This is entitled at the top 'Agreement'. This should be marked as Plaintiff's Exhibit 20-M for identification."

Then that is marked.

"Q Mr. Anton, so the record will be very clear with respect to Plaintiff's Exhibit 20 and there be no confusion, am I correct, sir, that the documents which have now been marked as a part of Plaintiff's Exhibit 20 for identification were furnished to us from the files of Eon?

"A Yes.

"Q Am I correct that these documents were photostated by someone at Eon?

"A Yes.

"Q Am I also correct that in certain cases it is possible that the document in the file of Eon was not original but may also have been a copy?

"A That is correct.

"Q Am I further correct that the documents in Plaintiff's Exhibit 20 were kept together and stapled together as they now appear in the safe of Eon Corporation?

"A Yes.

"Q Do you know who assembled these documents and stapled them together and put them in the safe of Eon Corporation?

"A That I don't know. It is one of the girls in the office.

"Q Do you know when that was done, approximately?

"A Approximately the day after the last visit of Mr. Mitchell to our offices or two days after, something like that. Mr. Mitchell had requested that the Teledyne subcontractor file and we scurried on to find it because we knew it existed and were not able to produce it at the time he was there, so it was found a day or two after".

MR.WEINBERGER: Your Honor, at this point --

THE COURT: Will you please stop. Sit down. He is reading a deposition.

MR. WEINBERGER: May I respectfully ask your Honor that Mr. Mitchell fix the date that he was there?

THE COURT: Would you please sit down until he is finished reading the examination and then you can ask him anything you want.

MR. MITCHELL: "Q Am I correct that while all these documents are stapled together for us here today they were not stapled together as one page while they were

maintained at the Eon Corporation?

"A They were bound some way in a file.

"Q They were bound in a file?

"A I don't know whether they are stapled or have a two-hole clasp, or something like that.

"MR. MITCHELL: I have just one clarification: These documents which we have marked as Plaintiff's Exhibit 20 were not found by you, Mr. Anton in the documents sent from American Marc in California, they were at the Eon -- in the Eon Corporation office file.

"THE WITNESS: Yes, this is our office copy file.

"Q With respect, for example, to Plaintiff's Exhibit 20-G,which is a first page of a letter on American Marc stationery, dated May 25, 1971, to Mrs. Fern Guy, the Bank of America, when would this copy have been received in the files of Eon Corporation?

"MR.LANG: Off the record.

"(Discussion off the record.)

"A I don't know, I assume a few days after the signing. I don't know."

Q Mr. Anton, did the portions of the depositions which I just read and the documents which originated in the Eon office files, such as the post office receipts and the

Q You did have occasion upon arriving in Los Angeles to meet with Mr. Leonard prior to your joint meeting with Mr. Leonard, Mr. Rouse and Mr.Coleman?

A Yes, sir.

Q And Mr. Leonard did, did he not, fill you in on the negotiations up to date, is that correct?

A Yes, sir.

THE COURT: Don't go into anything you covered on your direct case unless it is something you left out.

Q Mr. Leonard indicated to you, did he not, that he had described American Marc's financial situation to Messrs. Rouse and Coleman as being tight?

MR. WEINBERGER: May I ask counsel to--

MR. MITCHELL: I would like to hear --

MR. WEINBERGER: -- specify--

THE COURT: He is asking the question.

MR. WEINBERGER: I'm sorry, your Honor.

A Yes, I think so. I don't know now exactly, my memory now, whether I was in the car or whether I was walking with him. I told him-- he told me.

Q Mr. Anton, during the time that you were with Mr. Leonard, Mr. Rouse and Mr.Coleman, on May 12, did you have occasion to hear any discussion concerning a cashiers check?

A Concerning what?

Q A cashiers check?

A Absolutely not.

Q Any discussion concerning the use of cashiers checks?

A No, sir.

If I may answer that, if anything like that would have happened, I would have told the congregation, whoever was there, "Let's put it in the contract, take it to the lawyers, and we will set it up."

Q Was there any mention by you or by Mr. Leonard -- heard by you-- any reference to Canron?

A I'm sorry, I did not quite get the beginning of that.

Q Did you mention during the course of this meeting--

A No, sir.

Q Did you mention Canron?

A No, sir.

Q In your presence, did Mr. Leonard mention Canron?

A Not that I heard.

Q Was there any mention made of Electromagnetic Industries in your presence?

A No, sir.

Q Was there any mention made of the possibilities of attachment?

A No, sir.

MR.WEINBERGER: Objection, your Honor. This is arguing with the witness.

THE COURT: I think we are getting a little far afield. Maybe on a contract for the purchase of toothbrushes, you can novate.

Q Was any discussion had in your presence, Mr. Anton, whereby representatives of Teledyne on May 12th indicated they wanted to associate themselves as closely as possible with the moneys coming in from the government?

A Absolutely not.

Q Did Mr. Leonard indicate to you, Mr. Anton, that he had had -- did Mr. Leonard indicate to you that Teledyne's representatives had indicated they wanted to associate themsevles as closely as possible with the government moneys?

A I don't recall. I would have told them there is an assignment clause in the contract, but I don't recall.

Q Would it refresh your recollection, Mr. Anton --

THE COURT: But you couldn't use the assignment clause in this case?

THE WITNESS: Of course you can.

THE COURT: Can you assign part of the money, not all of it?

THE WITNESS: No. Assignment means any time, the

beginning, the middle, or anything, you go to the government and say "I am assigning my contract to Bank of America" --

THE COURT: But you can't say "I assigned X per cent of my contract," can you?

THE WITNESS: Yes, you could. You usually assign the whole contract --

THE COURT: But you could assign part of it?

THE WITNESS: Yes, but that is done with the bank and the bank then attaches their documents as to what they are going to do with the receipt of this money and they send it along with the print document. This is a standard form. They send it along to the contracting officer.

Q What would happen, Mr. Anton --

A Just a minute.

THE WITNESS: From then on, all payments made by the government go to the bank.

Q And that would include progress payments?

A That includes everything, all payments from the government, to the bank, and the bank disposses of it with the agreement that is part of the assignment.

Q I ask if the following, Mr. Anton, refreshes your recollection concerning that May 12th meeting or what Mr. Leoanrd may have told you concerning that May 12th meeting, and I am reading from Mr. Leonard's description on

page 99, line 27:

"Q What did Mr. Rouse tell you as to why he wanted a special account at the Bank of America?

"A I think previously we discussed this D and B report on Eon indicated to Teledyne that to the best of their abilities they should try to associate themselves as closely as possible, I guess, with the government funds that were available in the contract."

Does this refresh your recollection that Mr. Leonard recounted to you the sum and substance of what I just read you?

A Not at all.

MR.WEINBERGER: May I ask what you read from?

MR. MITCHELL: 99, Leonard.

Q What happens, Mr. Anton, if a contract is novated in the middle? Is there some form of accounting whereby when the original contractor is relieved of its responsibilities it has to settle up with the government?

A I really couldn't answer you that because in my 40 years I never novated a contract. I don't know the procedures.

Q You can't speak about the procedures of novating contracts with any authority?

A I --

Q You can't speak about the procedures for novating contracts with any personal knowledge; is that correct?

A No, excepting that I have read ASPR Regulation 15 and all others -- that's a whole book. Every time something comes up, we pick up the book and we read. I don't now make myself a copy, I am not a lawyer. I just check what I need and put the book back. If I wanted to novate a contract, I would pick up the book and I would read how to do it.

THE COURT: But you never have done that?

THE WITNESS: No, sir.

THE COURT: All right.

THE WITNESS: I personally never novated a contract. I know about novation.

THE COURT: You know one of the things you do in a novation is to account to the government before they let you off the hook?

THE WITNESS: That is for usre. That depends when and where and the circumstances, depends on a lot of things. These are complicated situations.

I can assure you one thing, the government is not going to lose any money in the deal.

THE COURT: At least they are not going to try to.

Q Mr. Anton, did Eon Corporation or any of its other divisions have during the years 1970 and 1971 and 1972 any other government contracts that were open? I am referring to all of the divisions of Eon Corporation.

A I would imagine there were.

Q You can't say for a certainty?

A Well, the question is the size of the contract and which division and everything else.

I am quite sure there must have been government contracts, none of this large magnitude because I would immediately know..

Q When you say, "Large magnitude," is it a fact,

Mr. Anton, that the proceeds of the Army contract involving the generator sets accounted for approximately 50 per cent of Eon Corporation's -- I am referring to Eon's consolidated corporation -- gross revenues during the years 1970 and 1971?

A That is a fact.

THE COURT: That is a fact?

THE WITNESS: That is a fact.

Q What happens, Mr. Anton, when a contract is terminated by reason of the default of the vendor? Does this have any repercussions on other contracts, other government contracts, which take particular contractor might have opened at the time?

A Well, that is a perfectly good question. At the time of the cancellation of the American Marc contract, DECASA in New York having a contract with us, smaller size, decided not to -- not to offset. Therefore, they ignored the American Marc contract cancellation.

Q Are there occasions, Mr. Anton, where the government has recognized that various of the divisions of Eon should be associated together for purposes of government contracts? Did Eon Corporation or one of its other divisions sell any of the items which went into the generator sets to American Marc at the time American Marc was manufacturing the generator set?

A Yes, sir. The Brooklyn Division manufactured the control box.

Q Did there come a time, Mr. Anton, when the Brooklyn Division tried to get progress payments based on its invoice price to American Marc Division and the government disallowed it because they recognized that both divisions were within the same consolidatec corporation?

MR.WEINBERGER: Your Honor, may I object to this line of questioning as to Eon Corporation and its dealing with the government, as to an attempt to get a progress payment?

MR. MITCHELL: I am responding to the last answer, Mr. Weinberger.

THE COURT: What is the relevance?

MR. MITCHELL: Your Honor, the witness testified in his previous answer that the government, and he mentioned a specific example, recognizes between the divisions. It will not offset once division againast the other.

THE COURT: He said they decided not to offset. I can take judicial notice I assume that the government can personalize a contractor for defaulting by cancelling his other contracts.

MR. MITCHELL: Or the contracts of other divisions of the same corporation.

THE COURT: Division is part of the corporation. It seems to me I can take judicial notice of that.

THE WITNES:S Can I answer him?

THE COURT: I don't see its relevance.

MR. MITCHELL: I am responding, your Honor. to testimony that came up the other day about alternatives available.

THE WITNESS: I could answer.

THE COURT: He seems to want to answer it. You can answer.

THE WITNESS: The answer is --

MR. MITCHELL: I suppose I ought to withdraw it then.

THE WITNESS: The answer is, I had inquired of American Marc to check and see if there is any possibility that we would get paid from DECASA in New York and that American Marc was turned down and so advised me. It's got nothing to do now with me going to the government.

Q You testified yesterday, Mr. Anton, with regard to a consignment agreement I believe dated April 3, 1972.

A Yes, sir.

Q I believe you stated that the origin of this agreement was in your meeting, your lunch time meeting, with Mr. Rouse and Mr. Coleman on the date of May 12,

1971; is that correct?

MR. WEINBERGER: Objection. There is no testimony he met with Mr. Coleman. I believe, if your Honor will recall the testimony of all parties, Mr. Coleman left California that morning with the purchase order. So that there was no meeting in the afternoon with Mr. Coleman.

MR. MITCHELL: I didn't state a meeting in the afternoon.

THE COURT: Lunch meeting.

THE WITNESS: Can I answer?

THE COURT: Yes.

THE WITNESS: The meeting with Mr. Rouse and Mr. Leonard while I was having lunch, after we had left American Marc and were going to the attorney -- during the lunch time I discussed with Mr. Rouse the great importance of completing the deal by them taking the inventory and the American Marc line, in other words, buying out American Marc.

Mr. Rouse said that he would discuss it with his people and that is it.

THE COURT: You say Mr. Coleman wasn't at that meeting?

THE WITNESS: No, sir.

THE COURT: All right.

Q So there was a meeting, so to speak, a discussion between you and Mr. Rouse which took place between the morning meeting at American Marc or the earlier meeting at American Marc and the meeting in the lawyer's office?

MR. WEINBERGER: Your Honor, may I object to the characterization of the morning meeting. I believe the testimony is --

MR. MITCHELL: I changed that to earlier meeting.

THE COURT: What difference does it make?

MR. WEINBERGER: Your Honor, I refuse to allow Mr. Mitchell -- may I respectfully object to Mr. Mitchell putting words into the witness' mouth, making leading questions and then erroneously stating the facts as to what was said and what took place. All three combined are in those questions, your Honor.

THE COURT: What difference does it make whether it is morning or early afternoon? He means the first meeting.

MR. MITCHELL: That is correct.

THE COURT: My recollection is, he didn't arrive until 1 o'clock.

MR. MITCHELL: That is why I amended my statement of morning meeting to earlier meeting, your Honor.

I recall that.

THE COURT: How much longer do you have on cross?

MR. MITCHELL: I will be going into the afternoon, your Honor.

THE COURT: I think the witness probably needs a little break.

THE WITNESS: Thank you.

(Recess.)

THE COURT: Yes.

BY MR. MITCHELL:

Q Mr. Anton, is it your understanding that Mr. Leonard brought these pages, portions of this exhibit, Exhibit 91, around Christmas of 1971 and left it in a box at Eon Corporation?

A That is the best recollection that I have, yes.

Q This was at a time when he came to discuss transfer to the East Coast and met with the accountants?

A He actually came to make a transfer but then the transfer was changed.

pm

Q Did Mr. Leonard attempt to hide these papers from you when he came?

A Absolutely not.

Q By virtue of the fact that he brought these papers which include documents referring to the Bank of America account, is your understanding that he was trying to hide knowledge of the Bank of American account from you?

A How would I know.

MR. WEINBERGER: I object to the question, your Honor. Mr. Anton testified he didn't know what documents came --

THE COURT: The answer was "How would I know," and that disposes of it.

Q Mr. Anton, I am still confused.

Your deposition testimony was to the effect that these documents came from an office file, which was either stapled together or with a two-hole clasp --

MR. WEINBERGER: Your Honor, may I object to that statement. I objected earlier today when Mr. Mitchell read Mr. Anton's deposition. He identified first the top contract and then they ask him to identify all the documents and he only addressed his comment as to the purchase order, or I believe the top contract, and perhaps coming from his safe and now Mr. Mitchell is lumping

b pm

Q What about S&S Industries?

A S&S Industries is a corporation that buys and sells machines. I don't know what they do, but we obtained some equipment from them and the rental and the equipment and everything else, that is what it was worth, and we never paid them for it. Subsequently, we returned those equipment to S&S Industries, if you say that is it.

THE COURT: That is another Srybnik corporation?

THE WITNESS: Yes.

Q Are both S&S Machinery and S&S Industries corporations with which Mr. Srybnik is associated?

A I would think so, yes.

Q Do you know the capacity in which he is associated?

A Oh, no. I don't know Mr. Srybnik's business.

THE COURT: My recollection is he testified he was a stockholder in them.

MR. MITCHELL: That is my recollection, your Honor.

Q So, Mr. Anton, it is correct, is it not, that Kerns Corporation, S&S Machinery, S&S Industries all do business from time to time with Eon Corporation? Is that correct?

A Well, if you tell me that they are on the books, it must be so.

Q Well, I am asking you if these are one-shot deals or if there is a course of doing business?

A Overthe course of eight years or seven years we may have had four, five transactions -- four transactions.

Q In May of 1972 was Mr. Melvin Srybnik a director and officer of Eon Corporation?

A Melvin was, in May '72 -- I think he was, yes. We went through this and I gave you the names and the dates.

THE COURT: I was told what relation Melvin was to Simon Srybnik, but I forgot.

THE WITNESS: He is his nephew.

Q Mr. Melvin Srybnik was an officer of the company?

A At one time he was.

Q I fer to May 1972 at the time he was a director.

THE COURT: Didn't we go over that?

MR.MITCHELL: Not this, your Honor.

MR. WEINBERGER: May I just say for the record, your Honor, we object to the line of questioning as to events long after any relationship to this case --

MR.MITCHELL: May '72, approximately the time of the diversion.

Q Mr. Anton, was Mr. Melvin Srybnik an officer of

Eon Corporation at this time?

A I knoe he was an officer. Whether he was on exactly that date, I don't know.

Q At the time in which he was an officer, was he paid a salary?

A Sure. He was a general manager of Dulcimiter Corporation.

Q I believe you testified earlier, Mr. Anton, in connection with the last two government checks, which were not paid to Teledyne, that you found out -- that the reason for this was that you found out Teledyne had told the government they were going to stop shipping?

A Yes, sir.

Q Isn't the real fact, Mr. Anton, that you held up those checks was to keep Eon alive, to keep it from going busted?

A Oh, certainly, that is the other reason. In other words, if Teledyne did stop and would stop shipping the contract would be cancelled and we would be left unable to continue. That is also true. That is another point of the same reason.

Q I believe you testified, Mr. Anton, that you were the founder of Eon Corporation.

A That is correct.

Q And you built up from a research and development corporation with your own efforts, is that correct?

A No, sir, those are your statements.

Q You had a sense of personal involvement with Eon Corporation, did you not?

A I have an extreme sense of personal involvement with the research, mostly medical research, of the corporation, yes.

Q But not a personal involvement in the survival of the corporation?

A What?

Q But not a personal involvement in the survival of the corporation?

A I didn't hear that word.

THE COURT: That is an iffy question. Were you personally interested in seeing the corporation did not go under?

THE WITNESS: Of course. I have an investment in the corporation of my own, I founded it, put in my own money.

Q I show you, Mr. Anton, Eon's annual report for the year 1970, which is Plaintiff's Exhibit 13 in evidence and I show you the page immediately following a message from management, and I refer you to the third full paragraph, which reads: "The corporation at its very top, from its

board of directors, enjoys sound director participation and active management advice by progressive profit-oriented businessmen like Simon Srybnik and Saul Waller and scientific guidance from the scientific advisory board and its quadri-science relationship as personified by Dr. Harold C.Urie."

I ask you, Mr. Anton, is it a correct statement and was it a correct statement at the time this annual report was distributed that Eon Corporation from its very top, from its board of directors, enjoyed sound direct participation and active management advice fromits board of directors?

MR. WEINBERGER: I object to that, your Honor. The statement is obviously an opinion-oriented type of thing.

THE COURT: He is asking if it is correct and he can say yes or no.

MR. WEINBERGER: Is the opinion correct?

THE COURT: Yes.

Q This was distributed to shareholders, was it not?

A Yes, of course.

Q Is the statement that I just read to you correct?

A It is correct.

Q Was it correct in 1971 as well?

A It is always correct when I sign it.

THE COURT: Good idea.

Q Would you state who the participants were at that meeting, not on behalf of Teledyne but on behalf of Eon Corporation?

A I believe Mr. Podell --

THE COURT: This is the meeting that Mr. Srybnik was not at?

THE WITNESS: No.

THE COURT: He came the next day, or something like that?

THE WITNESS: We are talking about the first meeting with Mr. Letts in my office, Mr. Srybnik was not there, Mr. Podell was there, and I don't remember anybody else.

Q You do recall Mr. Letts making such a statement, words to that effect?

A I know he was insulting and very vehement and the word "trust" was mentioned which was the first time I heard it.

Q It couldn't be descrived as an amicable meeting, could it?

THE COURT: We have that established.

THE WITNESS: Did I say it was an amicable meeting?

THE COURT: No, it couldn't be described as amicable?

THE WITNESS: Oh, no, sir.

Q At the meeting the next day Mr. Srybnik was present?

A At the corporate attorney's office, yes.

Q Was Mr. Letts there also?

A Yes, sir.

Q Did he start off the meeting by indicating his position in the same manner he had indicates his position the day before?

A I know there was a discussion, an opening by Mr. Letts, and then Mr. Frank told him "Let's forget about all those things. Let's get down to what we can do from now on."

So I don't think Mr. Letts at that meeting was as explicit or vehement as he was the first time I met him.

Q What was your reaction, Mr. Anton, the first time that you state you saw the May 13th letter and the May 23rd letter, which took place, you testified earlier, subsequent to these two meetings with Mr. Letts -- what was your reaction upon first viewing these letters? Did you say "Oh, that's what Mr. Letts was talking about"?

MR. WEINBERGER: Objection, your Honor.

THE COURT: Overruled. What was your reaction?

THE WITNESS: I had no reaction. I just read a couple of letters, that is all. They didnot say "This is a trust agreement. You are supposed to put the money here" -- I see plenty of trust agreements and this doesn't strike me -- letters, that is all.

Q As I recall, you testified earlier this morning that if you had seen those letters earlier you would have done something about it?

A I would have taken them to an attorney and told him "What the hell does that mean?"

Q So yo had a reaction --

A It didn't strike me as a trust agreement and I would connect it immediately with what Letts was saying.

Q When you subsequently saw whose letters, the May 13th letter from Mr. Rouse to Mr. Leonard and the letter to the Bank of America, did you make any connection between Mr. Letts' statement and those letters?

A No, sir.

MR. WEINBERGER: May I object to this line of questioning --

THE COURT: He said no.

Don't argue with him.

MR. MITCHELL: The line of questinong, your Honor, is directed towards the fact that if that were the first time that Mr. Anton had seen the letters --

THE COURT: He has answered you.

Make your arguments later. Don't argue with him.

t6a pm

Q I show you a letter, Mr. Anton, which is Plaintiff's Exhibit 22 in evidence. It is a letter dated June 21, 1972 from Mr. Leonard to Mr. Simon Srybnik. I ask you if you can identify this letter.

A It is a letter from American Marc to Mr. Srybnik and it is signed by Mr. James Leonard.

THE COURT: Have you ever seen it before? Obviously he identified it.

THE WITNESS: Yes, I have seen it.

Q Do you recall, Mr. Anton, receiving this letter at the offices of Eon Corporation on or about the date it bears?

A Yes, sir.

Q Did you forward a copy of this letter or forward the letter itself to the addressee, Mr. Simon Srybnik?

A I believe I testified to this already, that I either sent him the letter immediately or I called him and sent it to him subsequently. Maybe he told me, hold it,

I'll be there, I don't know. Anyway, if the letter is addressed to Mr. Simon Srybnik or anybody else, I would communicate with them and tell them about it.

Q Do you recall, in fact, Mr. Anton, speaking with Mr. Srybnik on the telephone shortly after this letter came in with reference to this letter?

A No, sir, I have no recollection that I had done that.

Q Can you state positively, Mr. Anton, that you did not telephone Mr. Shrbnik --

MR. WEINBERGER: Objection, your Honor.

Q -- with respect to this letter or could you state you just don't recall one way or the other?

A I can make no positive statement of what I did two and a half years ago, three years ago.

Q But you can with respect to what you did on May 12, 1971, is that correct?

THE COURT: Don't argue with the witness.

A You are now asking me whether I received the letter? Why don't you ask me if I pulled out the window shades on May 13th?

THE COURT: Did you?

THE WITNESS: I don't know, sir. I may have, yes.

THE COURT: All right.

Q I refer you, Mr. Anton, to page 2 of the letter and refer you to the second and third paragraphs.

A Yes, sir.

Q Rather than reading them, I will ask you to read them to yourself.

A Yes, sir.

Q In sum, Mr. Anton, these two paragraphs refer to the withholding by yourself of two checks received from the government, withholding as opposed to forwarding them to Teledyne; is that correct?

A I don't think so. You said two checks. I think that this refers to the receipt of a check and the receipt of a second check and the withholding of the second check.

THE COURT: First you held them both and then you sent on the first one?

THE WITNESS: No, sir. I had them both signed as they were received from the secretary and sent them out to Mr. Waller and he sent them immediately back.

Q Does this refresh your recollection, Mr. Anton, as to whether or not you had a telephone conversation at or around the time of this letter with Mr. Srybnik which covered the topics referred to in paragraphs 2 and 3 on

page 2?

A Well, as I stated, I can't recollect the conversation, pick up a phone and discussed it with Mr. Srybnik. The letter is addressed to Mr. Srybnik. I am certain that if I did not send him a copy of the letter, which I might have -- I don't remember -- I certainly called him and told him that I received the letter and either I read him or told him what the contents were, that's about it. This is not my recollection, this is what I think I would have done at the time I received the letter.

Q Do you think if you had called Mr. Srybnik you would have discussed portions of the letter other than the two paragraphs that I have referred to and not mentioned any of the topics covered in those two paragraphs?

A It is entirely possible because I think the most importance here was the selling of Eon, 450,000 net to the corporation. That would have been an important item. The fact that Mr. Leonard tells Mr. Srybnik about what I had done -- this is June 21st letter -- what I had done a few days before that, something like that, I don't know I would have told Mr. Srybnik. I cannot recollect. My statement is not worth anything right now.

Q Mr. Anton, you testified that the generator set Army contract was initiated by IFB, an information

for bid or invitation for bid back in I believe 1969; is that correct?

A Yes, sir.

Q Do you know if there was a copy of this initial information or invitation for bid maintained in the Eon New York offices as opposed to the American Marc West Coast office?

A I remember we had some material in the Eon safe relating to this -- relating to the beginning of this contract. I explained the reason for that was because we were participating in making a control box.

Q So by virtue of producing one of the constituent parts of the generator set, you would have received an invitation for bid?

A I didn't say invitation for bid, I said the contract. I saw later some work paper that went up to make up the cost or the bid price and the cost building up to the bid price. The reason for that is because in the same work papers were prices for components to be used in making up a box in which I was bidding against other suppliers to American Marc to make the box.

Q In your knowledge of government contracts, Mr. Anton, is it fair to state that bidding is competitive --

A I am sorry?

Q That bidding for a government contract is competitive and that one of the factors a bidder must consider is the bids that competitors have bid in the past.

THE COURT: He told us all that.

THE WITNESS: Of course.

THE COURT: He told us all that on his direct.

Q So it follows, Mr. Anton, that a bidder cannot bid for the profit that he would like to have on it, he's got to be realisitic?

THE COURT: He told us that, too.

A Yes.

Q Is it possible, Mr. Anton, that a bidder can bid a price which ultimately results in a loss to him?

THE COURT: The existence of the bankruptcy courts testifies to that.

THE WITNESS: Everything is possible.

MR.MITCHELL: I am referring specifically to government contracts, your Honor.

MR. WEINBERGER: I think perhaps Mr. Mitchell's question is more meaningful if he inserts the word, would a bidder knowingly bid, knowing that it would be at a loss.

THE COURT: He might even do that. I will take judicial notice that a bidder under ordinary circumstances

might incur a loss.

Q Would it be more likely that a bidder would unknowingly bid a loss if he had not manufactured the item before?

MR. WEINBERGER: Objection.

THE COURT: Why ask him all these qeustions?

MR. MITCHELL: I am taking advantage of his 40 years of expertise.

THE COURT: What is the purpose of all these questions? Obviously the purpose of going into a contract by and large is to make a profit. Occasionally you want to -- for an ulterior motive you are willing to take a loss. What is that got to do with 40 years of experience?

THE WITNESS: There is a more important consideration.

THE COURT: What is that?

THE WITNESS: In the bidding of a contract there are some fixed amounts such as direct material which you have to pay for, and you have to have direct labor, which you have to employ and pay. The balance of the price in the bidding is up to management because let us suppose, just to give an example, that there is $100 worth of material and there is $50 worth of labor, $150.

Now, if you start to apply percentages to it,

American Marc with 270 per cent overhead and with 16 per cent G&A would come to one price. Let's say Teledyne with an overhead of 100 per cent and some amount of G&A, I don't know exactly, would come up to the another price.

Now, if I know that I had to spend $150 but I could get 210, let us say, I have to consider that I have $60 income from this contract. If I apply my percentages, I lose money. If I don't apply my percentages, I lose more because I don't have that amount of money to contribute to pay the overhead. So sometimes, many times, people will figure on projected overhead, in other words, if you can increase your load, you go down with your percentage in overhead. So all these considerations go into the making of a decision. That is very simple for management, very elemental.

Q Is it possible in your experience, Mr. Anton, that a bidder could enter into a contract at a loss despitre having bid a higher price at an earlier date?

THE COURT: The answer to that is yes.

A I would say no.

THE COURT: Then you are crazy. Things can happen in the meantime to change the situation. You can always lose money on a contract.

All he said, is it possible that you expect to win and lose.

The answer to that is yes.

THE WITNESS: May I explain it, your Honor?

THE COURT: No.

Q You testified, Mr. Anton, that you visited the American Marc facilities in April of 1971.

A Yes, sir.

Q And this was in connection with a possible contract--

THE COURT: Are you going into a new subject?

MR. MITCHELL: A very short one, your Honor. I will be just a few minutes.

THE COURT: All right.

Q In connectionwith Watts Corporation or Watts Manufacturing -- what is the name of it, Watts Corporation?

telegrams that were sent in-- copies of telegrams sent in 1972, as being appropriate evidence with regard to the events that took place in 1971.

If your Honor does recall, Mr. Mitchell had collated these documents, put them together--

THE COURT: What documents?

MR. WEINBERGER: That were being submitted as part of Exhibit 20, your Honor, and that is the stapled group of papers.

THE COURT: Thatis not my recollection of any testimony, that is Mr. Anton's speculation of what may have happened.

MR. WEINBERGER: But, your Honor, he clearly said that the documents were collated by Mr. Mitchell and that one of the girls in his office stapled them, put them together, and collated the various papers connected with the contract.

THE COURT: That is not how I read his pretrial deposition. I rad his pretrial deposition that these papers could not be found when Mr. Mitchell was there and a few days later they were delivered by Eon to Mr. Mitchell.

MR. WEINBERGER: But he said they couldn't be found after Mr. Mitchell collated them.

THE COURT: That is what he said now, but I don't

read that in the deposition.

MR. WEINBERGER: I don't think he was asked the same questions on his deposition, your Honor, and one thing is definitely certain, as I think I brought out to your Honor--

MR. MITCHELL: This is argument, your Honor.

THE COURT: This is going to be received.

Am I correct that this issue came up in depositions within a month of the time these documents had been received by Mr. Mitchell?

MR. WEINBERGER: On what issue, your Honor?

THE COURT: Just how this document--

MR. WEINBERGER: No, sir. That was never the tenor of the questions.

THE COURT: It certainly was clear to me that Mr. Mitchell was trying to imply on those depositions that this document was a unit in Eon's files.

MR. WEINBERGER: Absolutely not, your Honor, and I will tell tell you why --

THE COURT: Then I just differ from you--

MR. WEINBERGER: I would like to find out where in Mr. Anton's deposition there are questions about the telegrams -- he asked one question: "Did the contract come from your files?"

And Mr. Anton said "Yes" --

THE COURT: Wait a minute, wait a minute. Stop yelling.

I am the only one that is allowed to yell around here.

MR. WEINBERGER: I'm sorry, your Honor.

THE COURT: There are three pages of his deposition where Mr. Mitchell lists each and every one of these documents.

At the close of that deposition he says, "Am I correct that these documents were photstated by someone at Eon?

"A Yes.

"Q Am I" --

MR. WEINBERGER: What page is that, your Honor?

THE COURT: 225.

MR. WEINBERGER: Yes, your Honor, page 225.

THE COURT: I will continue

"Q Am I further correct that these documents were kept together and stapled together as they now appear in the safe of Eon Corporation?

"A Yes.

"Q Do you know who assembled these documents?

"A That I don't know. It was one of the girls here."

"Q Do you know when that was done, approximately?

"Am I correct that while all these documents are stapled together for us today they were not stapled together in one package while they were maintained at Eon Corporation?

"A They were bound some way in a file. I don't know whether they are stapled or have a two-hole clasp, or something like that."

MR. WEINBERGER: May I ask your Honor to read the question on page 225 and the answer on page 225 beginning on line 19, or may I quote:

"Q Do you know whether that was done approximately?" He is talking about the assembling and stapling of the documents and it is referable to the question before and Mr. Anton answers:

"A Approximately the day after the last visit of Mr. Mitchell" --

THE COURT: If I were in your position, I would see that Mr. Mitchell thought it was important to determine whether that was done and I think it is equally important for you to determine whether that was done. This was within a moment of when it happened and it is up to you to present the evidence by someone who knows and if you don't do that, I can draw whatever inference I wish from your failure to do so.

MR. WEINBERGER: It seems to me, your Honor, the collating and the stapling of documents in 1972, and where the defendant --

THE COURT: Listen, what Mr. Mitchell is asking me to infer is that these documents were not collated at the time Mr. Anton says but they were part of a separate file in your office.

MR. WEINBERGER: Then I ask that your Honor direct that Mr. Mitchell take the stand and testify as to the circumstances of the days that he was allowed to rummage and ro through the files of Eon Corporation and what he did at those days and what he did with the documents, what documents he found because, your Honor --

THE COURT: I will not direct Mr. Mitchell to take the stand. If you wish him to take the stand, he is here and you may put him on the stand.

MR. WEINBERGER: Then I ask your Honor to withhold --

THE COURT: No.

MR. WEINBERGER: May I ask your Honor --

THE COURT: You can move to strike it, if you develop anything. All I said is that on the day of this examination, which I understand was within a month -- it was perfectly apparent to any competent attorney, and I assum you are one such, that it was an important matter to be able to establish how these documents got together. It was at that time equally apparent to any competent attorney that if it was done as defendant suggests, within a month thereof, the person who did it was available and could be deposed and Mrs. Anton is the administrator of the office and she would know.

If you have evidence on that, I would be willing to hear it.

MR. WEINBLRGER: May I say, your Honor, in your Honor's comment as to what an attorney would have done at that time, at the time of the deposition, it was very clearly my understanding at that time that Mr. Mitchell was invited to the offices of Eon Corporation --

THE COURT: If you want to testify, you testify.

MR. WEINBERGER: -- to select the documents he wanted, your Honor.

THE COURT: It is apparent to anybody upon reading this deposition that Mr. Mitchell was trying to give the inference that these documents were a unit before he ever got there.

That may or may not be the fact, but he was trying to create that inference and it is apparent as the nose on your face that that is the inference.

MR. WEINBERGER: Except that if your Honor would have taken the position that Mr. Mitchell was given the document that only he requested -- only he requested -- the purpose of his visit to the Eon Corporation was to cull out from 70 some odd transfiles whatever he wanted --

THE COURT: If you can't see the relevance of the argument that these documents were all in one unit,

income from those two items.

So, therefore, I did not worry too much at that time that there would be sufficient funds available to pay Teledyne and at the same time, obviously, the reason I was objecting to the 30 days was that in order to make payment to Teledyne the use of the payment that was going to be received -- the use of the funds was an important consideration in making payment to Teledyne, because although there were other items, the main item was still the payments that would be received from the government.

Q Didn't you also anticipate a profit from the transactions?

A Absolutely. As a matter of fact, the projection there shows a profit of 140, $50,000. Therefore, that is also an item I had in my mind.

Q We have done a lot of speculation in our time in this case and I would liek to ask a question, if I may, Mr. Anton: Had you been participating in the negotiations and Teledyne would have asked you to set up in a trust fund or a assign the proceeds to come from the government, as you have pointed out, as the normal procedure as provided for in the contract, would you have done that?

A Of course. Why not?

Q Knowing then what you knew and not what you know

am

On the question of the so-called trust, again I am not make any ruling because this is the kind of thing that needs to be analyzed with greater technical care.

My present impressio is the same as it has been all along, namely, that that does evidence a trust relationship. However, that is not a ruling, that is just my present impression.

Mr. Weinberger in his summation referred to several California cases on the subject of what has to be established to make a trust relationship in California. I am sure those cases will be analyzed for my benefit. I will analyze them myself. As of the moment, I don't have them.

MR.FELDSHUH: Your Honor, just for the record, may it please the Court, may it be deemed that at the end of the entire case the defendants made the motions for judgment dismissing the complaint and renewed all motions made at the end of the plaintiff's case.

THE COURT: But those will be formally renewed, which will be fleshed out in writing in briefs that you produce.

MR. FELDSHUH: Fine, sir.

On Mr. Anton's knowledge of the arrangement, whatever it is -- again I am not making any finding, but on that

I am quite confident I would find he did have knowledge. I won't go into the details of that. I must say, I am impressed with the fact that there was apparently a file in his office of these papers. Why the defendant should try to establish the contrary by cross examining Mr. Mitchell, who obviously didn't know, when Mr. Anton is sitting here, who obviously does know, I don't understand.

As to the other directors aside from Mr. Srybnik, my present inclination is there is insufficient evidence to connect them. That, again, needs careful analysis.

As to Mr. Srybnik, the case is closer and closer to Mr. Anton. I am quite confident in Mr. Srybnik's case if the Almighty were to come in he would say he knew. I am not equally confident that there is enough evidence so to find. I don't want to make too much of it because it isn't that important. I just want to elaborate on my observation that I thought he was testifying untruthfully on the relatively unimportant matter as to whether he knew that he was going to be asked about where Mr. Anton had been involved in that previous deal that Walper was involved in.

Mr. Anton and Mr. Srybnik are represented by the same counsel, they have the same interest in this litigation, they are friends. It is just contrary to human nature that Mr. Anton, assuming that Mr. Anton's testimony is correct

and that Mr. Srybnik's ultimate testimony is correct -- and I must say that directors meeting minutes seem to support their view. It just defies human nature to assume that Mr. Anton knew Mr. Srybnik was on a certain trip, that he wouldn't have said, why did you say I was there for? I wasn't. It is just contrary to human nature. I noticed nobody asked Mr. Anton to support Mr. Srybnik's testimony in that regard. I don't place too much emphasis on that because witnesses if they are not properly prepared have a tendency to assume there is something iniquitous about talking to another witness, even something iniquitous about talking to a lawyer.

I ordinarily discount a witness who denies having talked to his lawyer or discount the effect of it. However, a man of Mr. Srybnik's sophistication, the fact that he would, as it seems to me, prefer to tell an unimportant lie than to admit having talked about the case, has some significance.

As to the rest, if the evidence is sufficient to support such a finding, I would definitely find that he had seen that letter from Mr. Leonard which he denied having seen. It is just contrary to the relationship between the parties, and Mr. Anton's testimony is such that it defies belief that Mr. Anton would have gotten a letter addressed to

"Dear Simon" and not conveyed it to the person to whom it was addressed, especially if that person was the principal investor in his company.

However, I don't know whether the evidence, the affirmative evidence, is sufficient to connect Mr. Srybnik and, if so, whether if it is almost enough but not enough, whether my disbelief, affirmative disbelief of his testimony on material matter, namely, his knowledge of that letter as opposed to whether he talked to Mr. Anton or not, which is wholly immaterial, whether my affirmative disbelieve of his testimony on that would be adequate to support a finding, assuming for the sake of argument that there wasn't enough affirmative evidence to support that finding.

If anybody wants me to express any other view -- I don't want to here any argument. Argument is not the purpose here. Does anybody have any questions they want to ask me for their own guidance? Anybody wants to ask me any questions?

MR. WEINBERGER: Yes, your Honor.

Your Honor, getting back to the fraud issue, I think your Honor went down to whether or not Mr. Anton had knowledge or not as an issue.

I respectfully request, one, that on the issue of the two alleged misrepresentations, that issue should be

MR. MITCHELL: I think, your Honor, also, I would like to address myself to an issue which may be included in the issue as you formulated it, but I'm not sure.

I also will argue, your Honor, that the directors' knowledge is not only to be measured as of May 12th, 1971 or thereabouts, but up to the time prior to which Teledyne shipped, which would be in November of 1971, because it was at that point that Teledyne really went on the line in terms of suffering substantial damages.

I will address myself to that.

THE COURT: Address yourself to that issue. Nothing I said forecloses that.

MR. MITCHELL: Would it be helpful, your Honor, if we addressed the issue of the inventory, what we claim to be the inventory misrepresentation apart or separately from the misrepresentation which we claim as to the funds remaining?

THE COURT: You organize your brief however you think is most persuasive. Also I assume you are going to both address the issues as to what relevance, if any, the bankruptcy proceeding has.

Before you are through I hope you will give me an index of the exhibits you think are relevant. Don't index exhibits that were put in and then forgotten.

A 1082

PLAINTIFF'S EXHIBIT 1 FOR IDENTIFICATION

EXCERPTS FROM BOOKLET ENTITLED "A DAY TIMER"

7 FRIDAY
MAY 71 1971 • 238 Days Left
APPOINTMENTS & SCHEDULED EVENTS

Lido national Hotel

TO BE DONE TODAY (NUMBER EACH ITEM)

unit
DC 429
369 00

EXPENSE & REIMBURSEMENT RECORD:

American MART

FRIDAY 7
MAY 71 1971
TIME RECORD SERVICES PERFORMED, DIARY

A/C 27th Century

8 Steven Thomas Walper

9

10 Gene Walper
213-796-9954

11 4000 00

12 349.75 355 00
338

1 1.5 K.W. Generator sets

2 350 4000 5.00

3 1,400,00 Sub-contract

4 GFE Sodium-source resistance

5 Frame-Gas tank Bat control

NITE

A 1083

Plaintiff's Exhibit 1 for Identification

SATURDAY

MAY 8 1971 • 237 Days Left

APPOINTMENTS & SCHEDULED EVENTS

NAME PLACE SUBJECT

3741
136 wk 5/10
150 5/17
150 5/24
150 5/31
4341
TO BE DONE TODAY (NUMBER EACH ITEM)
150 6/7
4491

End Mfg 3633
June 100
July 400
4133 Schedule

EXPENSE & REIMBURSEMENT RECORD:

Where? Duration? Purpose-Who What Involved? Qty. Part? Reimbursed? Amount

SATURDAY

128th Day • MAY 8 1971

TIME RECORD, SERVICES PERFORMED, DIARY

FOR DESCRIPTION

8 J.W. [illegible] V.P. Director EON

9 5-5 EON O/C

10 MM MARC

11 Name is Available

12 1. Product Dev Coated Lagging Up to 10 H.P. (Above)

1 Lab on a Requirement for a cpl 20 H.P. Unit Coated (Couple years ago) 110,000 lbs & Mail Program was dropped by Army - (6 mo ago)

2

3

4 2c Printed Circ Line (4) H. 1.5 K.W. Amatex 450 Series Coated

5 Some Sum Imagery about 4200 & 4300 each qtr. open end -

NITE

A 1084

Plaintiff's Exhibit 1 for Identification

9 **SUNDAY** Mother's Day
MAY 9 1971 • 236 Days Left

APPOINTMENTS & SCHEDULED EVENTS

NAME PLACE SUBJECT

TO BE DONE TODAY (NUMBER EACH ITEM)

EXPENSE & REIMBURSEMENT RECORD:

Whom?	Where? Date?	Purpose-Who What involved?	To whom Paid?	Reimbursed? By whom?	Amount

Mother's Day **SUNDAY** 9*
129th Day • MAY 9 1971

TIME RECORD, SERVICES PERFORMED, DIARY

8 (B.) Can make time for
9 Gen - coach engine
1 cyl } with 4
2 cyl } Gen cooled
Heads

10 Also built some Non-
Magnetic engine for
sub marine.

11 Have client $300,000
of inventory -
$150,000 upon part
sales per year.

12 Have title of patent for
1 1 100 1 Cyl engine 4 ____ K.W.

1 (C.) Will engage R & D
2 with Univ (1 engine
built) 20 H.P.
3 Want 100,000 plus
Very little salary

4 (D.) Machining, Equipment
& Building

5

NITE

A 1085

Plaintiff's Exhibit 1 for Identification

10 MONDAY

MAY 10 1971 • 235 Days Left

APPOINTMENTS & SCHEDULED EVENTS

Inventory

A "agree Given Total bought for first year (on A0)

B. Un Sold inventory

All Investors all bought for 2nd year 106.00 (P.O. wise)

TO BE DONE TODAY (NUMBER EACH ITEM)

Being evaluated on price upon purchase orders for 2nd yr

C. Inventory owned by Am. Mart

D Leung sum Jacking & agency $1,000

Contract Made out to: American Mart

EXPENSE & REIMBURSEMENT RECORD:

Meeting of EON Corp

MONDAY 10

130th Day • MAY 10 1971

TIME RECORD. SERVICES PERFORMED. DIARY

Annual plans

1. Do subcontract the Job & ship to South Carolina

2. Try to make the meeting

3. Business handling at rate of 600 per month Selling 400 per month

4. Contract - 3733
ACTUAL - 3741
Returned - 1183
Shipped - 150/week
Macy and Carter 3633 1
Total contract 8801

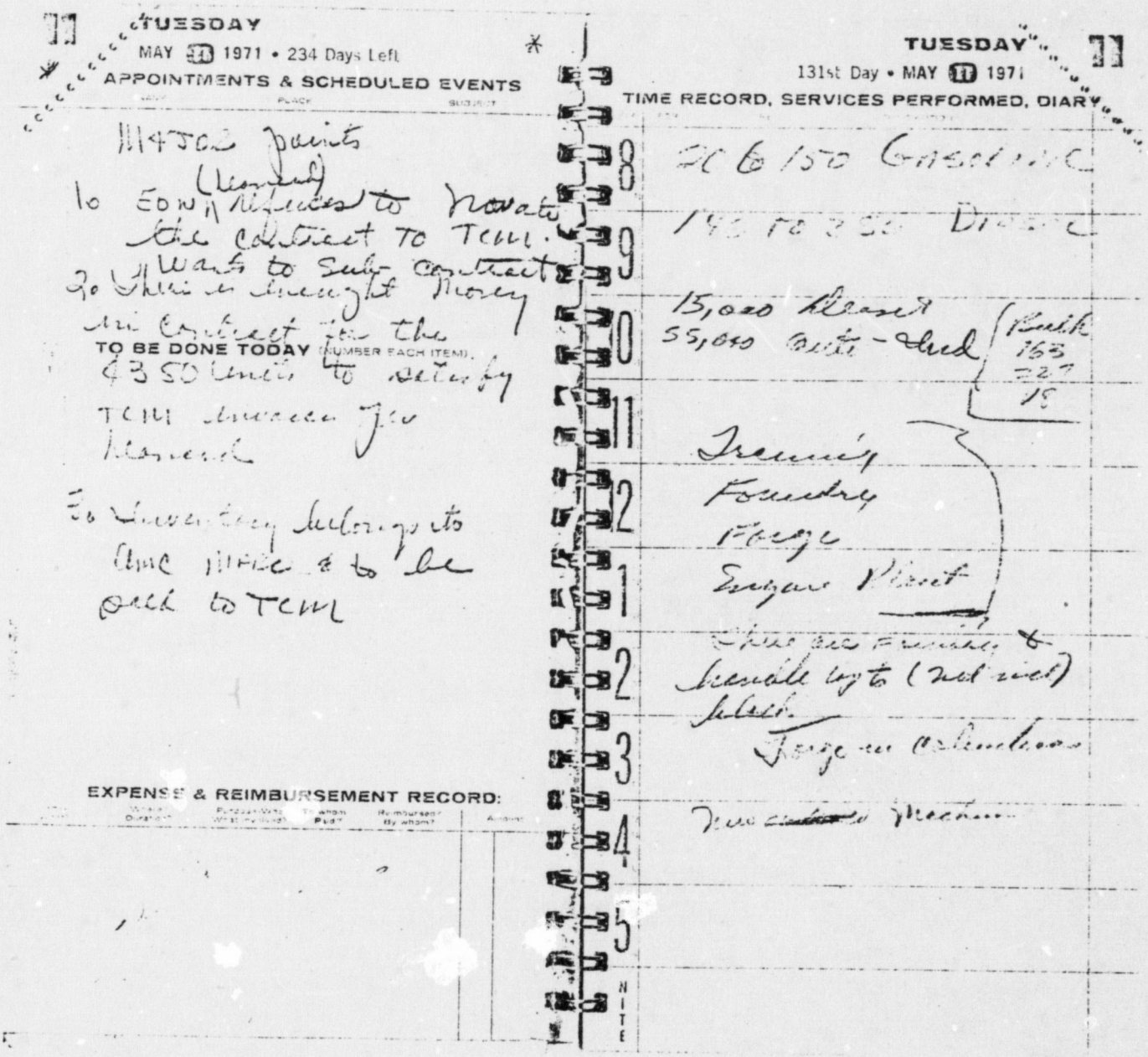
option year 8500/1250

Selling at 400/

8 9 10 11 12 1 2 3 4 5 6 7 NITE

A 1086

Plaintiff's Exhibit 1 for Identification



TUESDAY
MAY 11 1971 • 234 Days Left
APPOINTMENTS & SCHEDULED EVENTS
TIME PLACE SUBJECT

11+30 points (Hendrix)
to EDW // Refuses to negotiate the contract TO TCM.
2p Wants to Sell contract
Thinks he might Move
on Contract for the
TO BE DONE TODAY (NUMBER EACH ITEM).
4350 Units to satisfy
TCM Increase for
Harvest

To Inventory belongs to
Amc Title & to be
back to TCM

EXPENSE & REIMBURSEMENT RECORD:
Work Order # | Purpose of Work or Materials | To whom Paid? | Reimbursed By whom? | Amount

TUESDAY
131st Day • MAY 11 1971
TIME RECORD, SERVICES PERFORMED, DIARY

8 20 to 150 Consulting
9 1½ to 2:30 Diary
10 15,020 Harvest
55,040 anti-thed (Built 165 227 15
11
12 Trenary Foundry Forge Engine Plant
1 Three are Foundry & Should by to (not rich) Schools
2 Forge in Schoolhouse
3 Two cultured Machine
4
5
NITE

A 1087

Plaintiff's Exhibit 1 for Identification

12 WEDNESDAY

MAY 12 1971 • 233 Days Left

APPOINTMENTS & SCHEDULED EVENTS

NAME PLACE SUBJECT

1. ~~Did Ruth work for Roy Orth?~~
~~Jim Lee assisting~~
~~Ingram worked~~
~~for Roy Heffner~~
~~Engine at Cullman City~~

TO BE DONE TODAY (NUMBER EACH ITEM)

2. ~~Call Lois Nobles~~
~~about the engine [illegible]~~

3. ~~Call Jess call about~~
~~farm Mrs. Pate~~

4.

EXPENSE & REIMBURSEMENT RECORD:

Item What?	Where? Duration?	Purpose-Who What involved?	To whom Paid?	Reimbursed? By whom?	Amount

WEDNESDAY 12

132nd Day • MAY 12 1971

TIME RECORD, SERVICES PERFORMED, DIARY

HRS FOR RE DESCRIPTION

8 1. ~~Working in St house~~

9 2. ~~Stay work car P.O.~~

~~To Split off Jessie Tray~~

10 4. ~~Prepaid completion~~
~~of the 688 pieces~~

11 5.

12

1 1. ~~They will put off 688~~
~~into [illegible] of Delivery C~~

2 2. ~~It will not ag with~~
~~work to dispose the~~

3 ~~friends for sale sign that~~
~~a delta conforming~~

4 ~~It is not ag with~~
~~Bond Commercia to pay~~

5 ~~me just~~

6 3. Jess will let us
~~know about if they~~
~~need some one~~ from Texas
to go to St house

NITE

A 1088

Plaintiff's Exhibit 1 for Identification

13 THURSDAY

MAY 13 1971 • 232 Days Left

APPOINTMENTS & SCHEDULED EVENTS

NOTE PLACE SUBJECT

TO BE DONE TODAY (NUMBER EACH ITEM)

EXPENSE & REIMBURSEMENT RECORD:

When? Date? | For Person Who What Purpose? | To whom Paid? | Reimbursed? By whom? | Amount

THURSDAY 13

133rd Day • MAY 13 1971

TIME RECORD, SERVICES PERFORMED, DIARY

8 ~~Madison Hotel~~

9 ~~202-483-6400~~

10 Talked to St Louis - They said if you can reserve a room we might want a suite -

11 Will take as part of yours to Baltimore

12

1

2

3

4

5

NITE

ONLY COPY AVAILABLE

A 1089

PLAINTIFF'S EXHIBIT 2 FOR IDENTIFICATION

TWO-PAGE HANDWRITTEN NOTE

PX 4 for ident.
11/21/72
GT

Meeting May 12-1971

The following items were agreed to:

1. EON will set up with Bank America to hold funds received from Generator sales for a special account and will pay out TCM before anyone else. They will confirm this in writing.

2. EON will contact St Hawes yet this week (May 14) that the contract is being sub-contracted to TCM. They will ratify us if anyone from TCM is required at meeting.

3. EON will put out a stop work order on all open purchase orders at vendors for the generator TCM will require — TCM will determine if they want to continue using EON vendors by May 18-1971. And will so notify EON. TCM will issue new P/O taking over EON Terms, Price and Conditions.

4. EON & TCM agree that if a vendor comes in for a termination claim that TCM will agree to work with EON to reduce their liability, EON & TCM will share

A 1090

Plaintiff's Exhibit 2 for Identification

The price of TCM can purchase cheaper from another vendor, EON will sell to TCM at TCM lowest price.

5. EON will split off the material required to complete their portion of the contract and balance of material will be inspected, counted and prepared for shipment to TCM. TCM to have man on site to inspect and co-ordinate the preparement of shipment.

ONLY COPY AVAILABLE

A 1091

PLAINTIFF'S EXHIBIT 3

ORIGINAL PURCHASE ORDER

AMERICAN MARC DIVISION
8321 South Aviation Boulevard
Inglewood, California 90301
EON CORPORATION
Area Code 213 776-2700

Page 1 of 7

PURCHASE ORDER
THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257

DATE 5/12/71

TO
Teledyne Continental Motors
A Division of Teledyne Industries, Inc.
76 North Getty Street
Muskegon, Michigan 49443

SHIP TO

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO	ACCT NO.	W. O. NO.	REQ. NO.	DELIVER TO
YES ☒ NO ☐ SR AB 12-612392	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☒ REQ. BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
001	4372	ea.		FSN 6115-889-1446 Generator Set, Gasoline Engine Driven, 1.5 KW, Alternating Current, Air Cooled, Portable, Tubular Frame, Shock Mounted. Type I - Model SF-1.5-MD, 1.5 KW, 1.0 power factor (PF) at 60 Hz, single phase, 2 wire, 120/240 volts. In accordance with Military Specification MIL-G-52282B dated 23 May 1968 with modifications as specified herein and DL13214E0100, Revision "M" dated 15 March 1969. (F.O.B. Origin) (Level A/A) The above quantity of 4372 are made up of the balance, if any, of Item 0001 and all of Item 0019 and 0014. Under the P.O. engines to be furnished by the Government as GFE. G.S.I. is required at manufacturers facility.	$360.00		

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM	Delivery schedule in accordance with Contract DAAK01-69-C-A359, including all contract
DATE	modifications.
QUAN	

CONTRACT NO & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-69-C-A359 C-9 Class B	☒	☐	☐ DESTINATION SOURCE ☒	+ − %	$1,573,920

PRICE, SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE, SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

BY _____
PURCHASING AGENT

VENDOR

A 1092

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION

LON CORPORATION

TERMS AND CONDITIONS OF PURCHASE

1. This purchase order constitutes a binding contract on the terms set forth herein when it is accepted by Seller either by acknowledgment or by commencement of performance. No addition, change or modification of this purchase order shall be binding unless made in writing and signed by an authorized representative of Buyer.

WARRANTY: Seller expressly warrants that all articles, assemblies, parts and materials delivered under this purchase order will be free from defects in labor, materials or fabrication. This warranty shall run to Buyer, its successors, assigns and customers. All warranties shall be construed as conditions as well as warranties and shall not be deemed to be exclusive.

PACKING: All items shall be packed by Seller in suitable containers for protection in shipment and storage.

PATENT INDEMNITY: Seller agrees to indemnify and hold harmless the Buyer and its customers against all claims, demands and liability for actual or alleged infringement of any U.S. or foreign patents, trade-marks or similar right by the materials or articles delivered by the Seller, and the Seller will at its own expense defend any action, suit or claim in which such infringement is alleged, provided Seller is duly notified as to suits or claims against Buyer, and provided further that Seller's indemnity as to use shall not apply to articles delivered made to Buyer's drawings or design.

3. COPYRIGHTS: Seller agrees to grant to Buyer and to the Government a royalty-free right to reproduce, use and disclose any and all copyrighted or copyrightable matter required to be delivered by Seller to Buyer under this purchase order. However, it is not deemed to grant a license under any patent now or hereafter issued or employ any right to reproduce anything else called for under this purchase order.

4. MATERIALS FURNISHED: When Buyer furnishes materials to Seller to be worked upon, Seller will be responsible for the care and safeguarding of materials furnished by Buyer.

5. TOOLS AND DRAWINGS: Seller agrees that it will use any designs, tools, patents, drawings, information and equipment furnished by Buyer ONLY in the production of the articles called for in the purchase order and not otherwise unless written consent has been granted by an authorized representative of the Buyer. Buyer does not warrant the accuracy of tools and fixtures furnished and all work must be in strict accordance with specifications. Upon completion or termination, all items shall be returned to Buyer immediately.

6. LABOR DISPUTES: Whenever an actual or potential labor dispute is delaying or threatens to delay performance of this contract, Seller will immediately give notice to the Buyer and, further, if this order is issued under an Air Force contract, the Seller shall immediately give notice also to the nearest Air Force representative. Such notice shall include all relevant information with respect to such dispute.

7. DELAYS: Buyer reserves the right to cancel this order in the event shipments are not made within specified time. Seller will not, however, be liable for damages occasioned by delays in delivery due to causes beyond Seller's control and without his fault or negligence, provided Seller properly notifies Buyer as soon as such delay becomes evident.

8. TERMINATION (GOVERNMENT ORDERS): Buyer may, at its option, terminate this purchase order in whole or in part at any time by written or telegraphic notice to Seller. Upon termination of this order by Buyer for any reason other than default or delay of Seller (except when due to causes beyond Seller's control, fault or negligence), the respective rights and duties of Buyer and Seller shall be as provided herein and settlement shall be made in accordance with the Approved Government Termination Article applicable to the prime contract. All terms of such approved Government Termination Article shall be deemed to be incorporated and made a part hereof.

9. TERMINATION (NON-GOVERNMENT ORDERS): Buyer may, at its option, terminate this purchase order in whole or in part at any time by written or telegraphic notice to Seller. Upon termination in whole or in part of the work under this purchase order by Buyer, the Seller will stop work immediately, notify sub-contractors to stop work and protect property in Seller's possession in which Buyer has or may acquire an interest. If the parties cannot agree by negotiation within a reasonable time upon the amount of fair compensation to the Seller of such termination, Buyer will pay Seller without duplication:

(a) The contract price for articles which have been completed.
(b) The actual costs incurred by the Seller which are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of this order, including liabilities to sub-contractors which are so allocable.
(c) Allowance for profit on work done prior to termination of this order as deemed reasonable by the Buyer under the circumstances, payments however, may not exceed the aggregate price specified in this order. The Seller will transfer title and deliver to Buyer on Buyer's instructions any property which is reimbursed by the Buyer.

10. CONFIDENTIAL: Seller agrees to be responsible within its control for the safeguarding of all secret, confidential or restricted matters in connection with the work done or to be performed by the Seller and to require a similar agreement of third parties to whom any work on this order may be allocated.

11. COMPLIANCE WITH LAWS: Seller agrees that in the performance of this contract it will comply with all applicable Federal, State and Local laws and executive orders and regulations.

WHEN GOVERNMENT CONTRACT NO. IS SHOWN ON FACE, THIS ORDER IS SUBJECT ALSO TO THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS:

(a) Nondiscrimination in Employment: In connection with the performance of the work required by this order, Seller agrees not to discriminate against any employee or applicant for employment because of race, creed, color or national origin; and further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or for raw materials.

(b) Employment of Aliens: No aliens employed by Seller shall be permitted to have access to the plans or specifications of the work under construction, or to participate in the contract trials, in connection with Seller's performance under this order without the written consent beforehand of Buyer.

(c) Espionage: Seller will report to the United States Government immediately what known any danger of espionage or sabotage; it will supply, if requested, the full name, citizenship and country of birth, and alien status of any of its employees; and it will refuse to employ, or will discharge any person or persons whose access to the work in connection with the filling of this order shall be characterized as undesirable by the United States Government.

(d) Secrecy: Seller shall not make or permit to be made any reproductions of classified matter except to the extent and in the manner authorized by the Buyer in writing. Seller will be responsible for all matters within its control for the safeguarding of all "Top Secret," "Secret," "Confidential," or "Restricted" matters that may be disclosed or that may be developed in connection with the work to be performed under this order, and will not disclose to any third party, any of the details, plans, or specifications involved in this order, without the written consent of the Buyer. Seller agrees to insert the provisions of this clause in all subcontracts under this order which involve access to matters classified as above.

(e) Patent Rights: If payment under this order is to be made for experimental, development, or research work as such, Seller agrees to disclose to the United States Government each invention, improvement, or discovery conceived or first actually reduced to practice in the performance hereof; and to grant such rights to the United States Government and to perform such other acts as are required by the patent provisions of Buyer's prime contract under which this order is issued. Buyer will furnish copies of patent clauses on request of Seller.

(f) Renegotiation: This order shall be subject to any act of the Congress, whether heretofore or hereafter enacted, and to the extent indicated herein, providing for the renegotiation of orders of this type or kind, and shall be deemed to contain all the provisions required by any such act without subsequent amendment of this order specifically incorporating such provisions. Seller agrees to insert the provisions of this paragraph in all subcontracts as defined in Section 103(k) of the Renegotiation Act of 1951 (P. L. 9, 82nd Congress) except any subcontracts of a class or type described in Section 106(a) of the Renegotiation Act of 1951.

(g) Termination:

(1) The "Approved Termination Provisions for Use in Fixed Price Orders or Subcontracts for the Manufacture of Supplies Under Government War Contracts" as set out in Regulation No. 8 of the Office of Contract Settlement, issued October 4, 1944, shall be considered a part of this Termination Article and, together with paragraph (2), (3), and (4) below, shall constitute the Termination Article of this order.

(2) The obligation of the Buyer to make any of the payments required by this Article shall be subject to any unsettled claim for labor or material and to any claim which the Buyer may have against the Seller under or in connection with this contract, and payments under this Article shall be subject to reasonable deductions by the Buyer on account of defects in materials or workmanship in completed or partially completed articles delivered hereunder.

(3) The obligation of the Buyer to make payment or payments to the Seller under this section shall be subject to the written approval of a duly authorized representative of the United States Government; provided, however, that nothing herein contained shall be deemed to limit or in any way affect any right of appeal from the decision of such representative, to which the Seller or the Buyer may otherwise be entitled.

(4) In the event any claim on termination is settled by negotiation the provisions of this section shall be without prejudice to the rights of the parties to effectuate such negotiated settlement in accordance with any act of the Congress of the United States that may heretofore have been or may hereafter be passed in respect to or affecting the termination of fixed price subcontracts under Government Prime Contracts or in accordance with any general program relating to the termination of such subcontracts which may heretofore have been or may hereafter be approved by any authorized official of the Government.

(h) Covenant against Contingent Fees: Seller warrants that he has not employed any person to solicit or secure this order upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give Buyer the right to annul this order, or, in its discretion, to deduct from the agreed price or consideration the amount of such commission, percentage, brokerage or contingent fee. This warranty shall not apply to commissions payable by Seller upon orders or sales secured or made through bona fide established, commercial or selling agencies maintained by the Seller for the purpose of securing business.

(i) Officials Not to Benefit: No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this order or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this order if made with a corporation for its general benefit.

(j) Subcontracting: No subcontract shall be made with any other party for furnishing any of the completed or substantially completed articles, spare parts or work herein contracted for without the approval of the Buyer and an appropriate Government representative as to source.

(k) Domestic Articles: The Seller warrants that the materials furnished under this order will be mined or produced in the United States, or manufactured from such materials in so far as is required by the Act of March 3, 1963 (41 U.S.C. 10a-10c and amendments thereunder).

(l) Walsh-Healey Act: Seller agrees to comply with the applicable provisions of the Walsh-Healey Public Contracts Act (Act of June 30, 1936 as amended; 41 U.S.C. 35-45) and agrees to indemnify Buyer against any damages by reason of violations of this paragraph.

(m) Inspection and Audit: The Seller agrees that its books and records, and its plant or such parts thereof as may be engaged in the performance of this contract shall at all reasonable times be subject to inspection and audit by any authorized representative of the United States Government.

(n) Notice to Government of Labor Disputes:

(1) Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, Seller will immediately give notice thereof to the appropriate Government representative. Such notice shall include all relevant information with respect to such dispute.

(2) Seller will include this clause in each subcontract and Purchase Order made hereafter under this contract.

(o) Limitation of Profit: Seller warrants that, as far as same may be applicable hereto, it will comply with the Vinson-Trammell Act as amended and extended (34 U.S.C. 496, and 10 U.S.C. 311) relating to profit limitations on certain Government contracts and subcontracts, and with all other Government statutes, rules and regulations on the subject.

"By acknowledgment of this Purchase Order Seller Certifies that these goods will be produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wage and Hour Division issued under Section 14 thereof."

Seller represents that to the best of its information and belief the price or prices to be charged for items covered by this Purchase Order will not exceed the applicable maximum prices, if any for such items, at time of delivery, as permitted under executive orders and regulations, as same may be amended from time to time, issued pursuant to the Defense Production Act of 1950 or other government authority, and Seller will forthwith refund any amounts paid by Buyer in excess of amounts permitted by such regulations.

THE PROVISIONS OF SECTION 202, EXECUTIVE ORDER 11246 ARE INCORPORATED HEREIN BY REFERENCE.

A 1093

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION

8831 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257

DATE 5/12/71

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO	ACCT NO.	W. O. NO.	REQ. NO.	DELIVER TO
NO ☐ YES ☒ SR AS 12-612552	1390	J-0577		according to Contract DAAK01-69-C-A3[illegible]

MATERIAL FURNISHED: BY AM ☐ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED: BY AM ☐ VENDOR ☒

REQ. BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
		Par 3A		All items on this order are subject to MIL-I-45208A Inspection Requirements.			
		Par 3B		"Supplementary Quality Assurance Provisions" (SQAP #13204E1700 is also applicable.)			
		Par 3C		All vendor's terms and conditions of Contract DAAK01-69-C-A359 and Modifications P001 thru' P0021 apply to TCM as they apply to American MARC, with the exception of Paragraph 41, Page 22. This paragraph is not applicable to TCM.	Price Escalation		
		Par 3D		Any procurement options available to the government under the contract will be extended to TCM at the above price or price subject to increases or decreases by contract modification to the basic contract by the government which,			

DELIVERY SCHEDULE – QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN										

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-69-C-A359 C-O Class B	☐	☐	☐ DESTINATION SOURCE ☒	+ − %	

PRICE, SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE, SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

BY [signature] PURCHASING AGENT

VENDOR

A 1094

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION

LION CORPORATION

TERMS AND CONDITIONS OF PURCHASE

1. This purchase order constitutes a binding contract on the terms set forth herein when it is accepted by Seller either by acknowledgment or by commencement of performance. No addition, change or modification of this purchase order shall be binding unless made in writing and signed by an authorized representative of Buyer.

2. WARRANTY: Seller expressly warrants that all articles, assemblies, parts and materials delivered under this purchase order will be free from defects in labor, materials or fabrication. This warranty shall run to Buyer, its successors, assigns and customers. All warranties shall be construed as conditions as well as warranties and shall not be deemed to be exclusive.

3. PACKING: All items shall be packed by Seller in suitable containers for protection in shipment and storage.

4. PATENT INDEMNITY: Seller agrees to indemnify and hold harmless the Buyer and its customers against all claims, demands and liability for actual or alleged infringement of any U.S. or foreign patents, trade-marks or similar right by the materials or articles delivered by the Seller, and the Seller will at its own expense defend any action, suit or claim in which such infringement is alleged, provided Seller is duly notified as to suits or claims against Buyer, and provided further that Seller's indemnity as to use shall not apply to articles delivered made to Buyer's drawings or design.

5. COPYRIGHTS: Seller agrees to grant to Buyer and to the Government a royalty-free right to reproduce, use and disclose any and all copyrighted or copyrightable matter required to be delivered by Seller to Buyer under this purchase order. However, it is not deemed to grant a license under any patent now or hereafter issued or employ any right to reproduce anything else called for under this purchase order.

6. MATERIALS FURNISHED: When Buyer furnishes materials to Seller to be worked upon, Seller will be responsible for the care and safeguarding of materials furnished by Buyer.

7. TOOLS AND DRAWINGS: Seller agrees that it will use any designs, tools, patents, drawings, information and equipment furnished by Buyer ONLY in the production of the articles called for in the purchase order and not otherwise unless written consent has been granted by an authorized representative of the Buyer. Buyer does not warrant the accuracy of tools and fixtures furnished and all work must be in strict accordance with specifications. Upon completion or termination, all items shall be returned to Buyer immediately.

8. LABOR DISPUTES: Whenever an actual or potential labor dispute is delaying or threatens to delay performance of this contract, Seller will immediately give notice to the Buyer and, further, if this order is issued under an Air Force contract, the Seller shall immediately give notice also to the nearest Air Force representative. Such notice shall include all relevant information with respect to such dispute.

9. DELAYS: Buyer reserves the right to cancel this order in the event shipments are not made within specified time. Seller will not, however, be liable for damages occasioned by delays in delivery due to causes beyond Seller's control and without his fault or negligence, provided Seller properly notifies Buyer as soon as such delay becomes evident.

10. TERMINATION (GOVERNMENT ORDERS): Buyer may, at its option, terminate this purchase order in whole or in part at any time by written or telegraphic notice to Seller. Upon termination of this order by Buyer for any reason other than default or delay of Seller (except when due to causes beyond Seller's control, fault or negligence), the respective rights and duties of Buyer and Seller shall be as provided herein and settlement shall be made in accordance with the Approved Government Termination Article applicable to the prime contract. All terms of such approved Government Termination Article shall be deemed to be incorporated and made a part hereof.

11. TERMINATION (NON-GOVERNMENT ORDERS): Buyer may, at its option, terminate this purchase order in whole or in part at any time by written or telegraphic notice to Seller. Upon termination in whole or in part of the work under this purchase order by Buyer, the Seller will stop work immediately, notify sub-contractors to stop work and protect property in Seller's possession in which Buyer has or may acquire an interest. If the parties cannot agree by negotiation within a reasonable time upon the amount of fair compensation to the Seller of such termination, Buyer will pay Seller without duplication:

(a) The contract price for articles which have been completed.
(b) The actual costs incurred by the Seller which are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of this order, including liabilities to sub-contractors which are so allocable.
(c) Allowance for profit on work done prior to termination of this order as deemed reasonable by the Buyer under the circumstances, payments however, may not exceed the aggregate price specified in this order. The Seller will transfer title and deliver to Buyer on Buyer's instructions any property which is reimbursed by the Buyer.

12. CONFIDENTIAL: Seller agrees to be responsible within its control for the safeguarding of all secret, confidential or restricted matters in connection with the work done or to be performed by the Seller and to require a similar agreement of third parties to whom any work on this order may be allocated.

13. COMPLIANCE WITH LAWS: Seller agrees that in the performance of this contract it will comply with all applicable Federal, State and Local laws and executive orders and regulations.

WHEN GOVERNMENT CONTRACT NO. IS SHOWN ON FACE, THIS ORDER IS SUBJECT ALSO TO THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS:

(a) Nondiscrimination in Employment: In connection with the performance of the work required by this order, Seller agrees not to discriminate against any employee or applicant for employment because of race, creed, color or national origin; and further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or for raw materials.

(b) Employment of Aliens: No aliens employed by Seller shall be permitted to have access to the plans or specifications, or the work under construction, or to participate in the contract trials, in connection with Seller's performance under this order without the written consent beforehand of Buyer.

(c) Espionage: Seller will report to the United States Government immediately when known any danger of espionage or sabotage; it will supply, if requested, the full name, citizenship and country of birth, and alien status of any of its employees; and it will refuse to employ, or will discharge any person or persons whose access to the work in connection with the filling of this order shall be characterized as undesirable by the United States Government.

(d) Secrecy: Seller shall not make or permit to be made any reproductions of classified matter except to the extent and in the manner authorized by the Buyer in writing. Seller will be responsible for all matters within its control for the safeguarding of all "Top Secret," "Secret," "Confidential," or "Restricted" matters that may be disclosed or that may be developed in connection with the work to be performed under this order, and will not disclose to any third party, any of the details, plans, or specifications involved in this order, without the written consent of the Buyer. Seller agrees to insert the provisions of this clause in all subcontracts under this order which involve access to matters classified as above.

(e) Patent Rights: If payment under this order is to be made for experimental, development, or research work as such, Seller agrees to disclose to the United States Government each invention, improvement, or discovery conceived or first actually reduced to practice in the performance hereof; and to grant such rights to the United States Government and to perform such other acts as are required by the patent provisions of Buyer's prime contract under which this order is issued. Buyer will furnish copies of patent clauses on request of Seller.

(f) Renegotiation: This order shall be subject to any act of the Congress, whether heretofore or hereafter enacted, and to the extent indicated herein, providing for the renegotiation of orders of this type or kind, and shall be deemed to contain all the provisions required by any such act without subsequent amendment of this order specifically incorporating such provisions. Seller agrees to insert the provisions of this paragraph in all subcontracts as defined in Section 103(g) of the Renegotiation Act of 1951 (P. L. 9, 82nd Congress) except any subcontracts of a class or type described in Section 106(a) of the Renegotiation Act of 1951.

(g) Termination:

(1) The "Approved Termination Provisions for Use in Fixed Price Orders or Subcontracts for the Manufacture of Supplies Under Government War Contracts," as set out in Regulation No. 6 of the Office of Contract Settlement, issued October 6, 1944, shall be considered a part of this Termination Article and, together with paragraph (2), (3), and (4) below, shall constitute the Termination Article of this order.

(2) The obligation of the Buyer to make any of the payments required by this Article shall be subject to any unsettled claim for labor or material and to any claim which the Buyer may have against the Seller under or in connection with this contract, and payments under this Article shall be subject to reasonable deductions by the Buyer on account of defects in materials or workmanship of completed or partially completed articles delivered hereunder.

(3) The obligation of the Buyer to make payment or payments to the Seller under this section shall be subject to the written approval of a duly authorized representative of the United States Government; provided, however, that nothing herein contained shall be deemed to limit or in any way affect any right of appeal from the decision of such representative, to which the Seller or the Buyer may otherwise be entitled.

(4) In the event any claim on termination is settled by negotiation the provisions of this section shall be without prejudice to the rights of the parties to effectuate such negotiated settlement in accordance with any act of the Congress of the United States that may heretofore have been or may hereafter be passed in respect to or affecting the termination of fixed price subcontracts under Government Prime Contracts or in accordance with any general program relating to the termination of such subcontracts which may heretofore have been or may hereafter be approved by any authorized official of the Government.

(h) Covenant against Contingent Fees: Seller warrants that he has not employed any person to solicit or secure this order upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give Buyer the right to annul this order, or, in its discretion, to deduct from the agreed price or consideration the amount of such commission, percentage, brokerage or contingent fee. This warranty shall not apply to commissions payable by Seller upon orders or sales secured or made through bona fide established, commercial or selling agencies maintained by the Seller for the purpose of securing business.

(i) Officials Not to Benefit: No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this order or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this order if made with a corporation for its general benefit.

(j) Subcontracting: No subcontract shall be made with any other party for furnishing any of the completed or substantially completed articles, spare parts or work herein contracted for without the approval of the Buyer and an appropriate Government representative as to source.

(k) Domestic Articles: The Seller warrants that the materials furnished under this order will be mined or produced in the United States, or manufactured from such materials in so far as required by the Act of March 3, 1943 (41 U.S.C. 10a-10c and amendments thereunder).

(l) Walsh-Healey Act: Seller agrees to comply with the applicable provisions of the Walsh-Healey Public Contracts Act (Act of June 30, 1936 as amended; 41 U.S.C. 35-45) and agrees to indemnify Buyer against any damages by reason of violations of this paragraph.

(m) Inspection and Audit: The Seller agrees that its books and records, and its plant or such parts thereof as may be engaged in the performance of this contract shall at all reasonable times be subject to inspection and audit by any authorized representative of the United States Government.

(n) Notice to Government of Labor Disputes:

(1) Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, Seller will immediately give notice thereof to the appropriate Government representative. Such notice shall include all relevant information with respect to such dispute.

(2) Seller will include this clause in each subcontract and Purchase Order made hereafter under this contract.

(o) Limitation of Profit: Seller warrants that, as far as same may be applicable herein, it will comply with the Vinson-Trammell Act as amended and extended (34 U.S.C. 496, and 10 U.S.C. 311) relating to profit limitations on certain Government contracts and subcontracts, and with all other Government statutes, rules and regulations on the subject.

"By acknowledgment of this Purchase Order Seller Certifies that these goods will be produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wage and Hour Division issued under Section 14 thereof."

Seller represents that to the best of its information and belief the price or prices to be charged for items covered by this Purchase Order will not exceed the applicable maximum prices, if any for such items, at time of delivery, as permitted under executive orders and regulations, as same may be amended from time to time, issued pursuant to the Defense Production Act of 1950 or other Government authority, and Seller will forthwith refund any amounts paid by Buyer in excess of amounts permitted by such regulations.

THE PROVISIONS OF SECTION 202, EXECUTIVE ORDER 11246 ARE INCORPORATED HEREIN BY REFERENCE.

A 1095

Plaintiff's Exhibit 3

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257

AMERICAN MARC DIVISION
8831 South Aviation Boulevard
Inglewood, California 90301
EON CORPORATION
Area Code 213 776-2700

DATE 5/12/71

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO.	ACCT. NO.	W. O. NO.	REQ. NO.	DELIVER TO
NO ☐ YES ☒ SS AS 12-612992	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☒

REQ. BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				if they effect TCM, cost or delivery, will be jointly negotiated.			
		Par 3E		EON also extends to TCM requirements added to contract by Mod P00010, Paragraph 3, 3a as it applies to Contract CLIN 0001, 0014, 0014AA, 0014AB, and 0019. This cost is included in the above unit price. However, when TCM is required to do work under CLIN 17 and 18, for adjustment, cleaning, repairs and parts replacement to GFE engines as more fully described in paragraph 4 hereof - as follows:			
		Par 4		4. For adjustments, cleaning, repairs and replacement of repair parts pursuant to paragraphs (c), (d) f (Second sentence only), and (e) of the above clause the contractor shall be paid at an hourly rate for each hour worked.			

DELIVERY SCHEDULE - QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN.										

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-69-C-A359	☐	☐	☐ DESTINATION ☐ SOURCE	+ −	

PRICE, SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE, SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

BY _____
PURCHASING AGENT

3

VENDOR

A 1096

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION

8831 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257

DATE 5/12/71

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

NO YES 8 RESALE PERMIT NO. SR AS 12-612352	ACCT NO.	W. O NO.	REQ. NO.	DELIVER TO
	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☒ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☒

REQ. BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
		Par #4 Con't		The contractor shall not exceed three (3) manhours per engine without prior approval of the Government representative. The maximum total amount authorized for payment for this work SHALL NOT EXCEED $105,000.00. The contractor shall maintain an accurate daily record of actual manhours worked by engine serial number, description of work performed, name of certified mechanic. Such record shall be maintained at the engine repair work station, shall be accessible to the government representative on site and shall be available for audit by the government upon request.	$349,436.61 Contract		
		Par* 4A		For packaging and marking defective GFE engines, parts and accessories as more fully described in paragraph 5 hereof - as follows:			

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN										

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-69-C-A359	☐	☐	☐ DESTINATION SOURCE ☐	+ − %	

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AMERICAN MARC DIVISION
EON CORPORATION

BY _____
PURCHASING AGENT

VENDOR

A 1097

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION
8831 South Aviation Boulevard
Inglewood, California 90301
EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER
THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257

DATE 5-12-71

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
NO ☐ YES ☐ RESALE PERMIT NO SR AB 12-812352	Walterboro, S.C.	Std. Surface	Net 30 Days
	ACCT. NO. 1390 / W. O. NO. J-0577	REQ. NO.	DELIVER TO According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS ☐ TOOLS FURNISHED BY AM ☐ VENDOR ☒ REQ. BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
		Lot	5.	For marking and packaging of defective government furnished engines, parts and accessories pursuant to paragraphs (i),(j) and (k)' of the above clause the contractor shall be paid at an hourly rate for each hour worked. The contractor shall be allowed one-half hour per engine for marking and packaging. The contractor shall not be paid for any time in excess of one-half hour per engine nor shall the government deduct any time less than one-half hour per engine. The contractor shall be paid the actual packaging time for marking and packaging defective government furnished parts and accessories. The maximum total amount authorized for payment for this work SHALL NOT EXCEED $5,000.00. This amount shall be payable for packaging NOT MORE THAN 598 engines, (598 engines X 1/2 hour per engine) and a total of			

3,454.52 on Prime Contract

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN.										

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-69-C-A359	☐	☐	☐ DESTINATION SOURCE ☐	+ − %	

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AMERICAN MARC DIVISION
EON CORPORATION

BY _____
PURCHASING AGENT

VENDOR

A 1098

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION
8331 South Aviation Boulevard
Inglewood, California 90301
EON CORPORATION
Area Code 213 776-2700

Page 6 of 7

DATE 5-12-71

PURCHASE ORDER
THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterbor, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT OR AB 12-612552	ACCT NO.	W. O. NO.	REQ. NO.	DELIVER TO
NO ☐ YES ☒	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☒

REQ. BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				given manhours for packaging parts and accessories (5 hrs.), as in paragraph 3b above, the contractor shall maintain a daily record of the number of engines packaged and the time expended for packaging parts and accessories. Payment for the above work, as required, will be invoiced per paragraph 7 and 8 of this MOD 0010. The above work will be billable to American MARC at the rate of $9.00 an hour from TCM. As a result of this additional work, the maximum funds available to TCM are $110,000, based on limitations set forth in paragraph 4 and 5 of this Mod P00010.			

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN.										

CONTRACT NO & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-69-C-A359	☐	☐	☐ DESTINATION SOURCE ☐	+ − %	

PRICE. SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE. SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

BY R. L. Russ
PURCHASING AGENT

VENDOR

A 1099

Plaintiff's Exhibit 3

AMERICAN MARC DIVISION

8831 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M1-1257

DATE 5-12-71

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO.	ACCT NO.	W. O. NO.	REQ. NO.	DELIVER TO
NO ☐ YES ☒ SR AS 12-812582	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☐ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☐

REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
		Per #7		Article 2 "Warranty" on the P.O. is deleted and the following is substitued. (See attachment)			
		Per #8		Article 4, Article 7 and Article 11 are hereby deleted without substitution. The termination terms and conditions of the Contract DAAK01-69-C-A359 apply in lieu of Article 11.			
		Per #9		CLIN 15 and 16 documentation will be delivered to the government by American MARC.			

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN.										

CONTRACT NO. & PRIORITY		CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
		☐	☐	☐ DESTINATION SOURCE ☐	+ − %	

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AMERICAN MARC DIVISION
EON CORPORATION

BY A. C. Thun
PURCHASING AGENT

VENDOR

A 1100

Plaintiff's Exhibit 3

Attachment "Vendor terms and Condition" are duly part of this purchase order.

Article No. 2 "Warranty" is deleted and the following substituted in lieu there of: "A". EON hereby acknowledges the U.S. Government as its agent to inspect and accept all supplies under this purchase order. The U.S. Government will supply inspection for said supplies at TCM designated facility.

"B". Acceptance or rejection of the supplies by the U.S. Government should be made as promptly as practical after presentation of the supplies for acceptance period. In the event supplies are not rejected within 30 days after presentation, they will be deemed to have been accepted.

"C". In case any supplies are defective in material and workmanship, the U.S. Government will have the right either to reject them or require their correction. Acceptance by the U.S. Government should be conclusive accept as provided in ASPR 7-103.5(a). TCM sole responsibility for obligation for defects shall be to repair or to replace such defective material or parts which have been returned to it and shall be deemed by TCM to be attributable to faulty workmanship or material. Said responsibility or obligation for defects is granted in LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE, OR STATUTORY and all other obligations for liabilities including special or consequential damages or contingent liabilities, and no person is authorized to give any warranty or to assume any additional responsibility or obligation on TCM behalf, unless made in writing and properly authorized by an officer of TCM.

Articles 4, 7, and 11 - Terms and Condition of Termination as per our Contract are hereby deleted without substitutions.

A 1101

PLAINTIFF'S EXHIBIT 4A FOR IDENTIFICATION

MODIFICATION TO PURCHASE ORDER

AMERICAN MARC DIVISION
EON CORPORATION
East South Aviation Boulevard
Inglewood, California 90301
Area Code 213 776-2700

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M-1257-9

DATE October 11, 1971

TO
Teledyne Continental Motors
A Division of Teledyne Industries, Inc.
76 North Getty Street
Muskegan, Michigan 49443

SHIP TO

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days
RESALE PERMIT NO SR AB 12-612552	ACCT NO. 1390 / W. O. NO. J-0577	REQ. NO.	DELIVER TO According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS ☐ TOOLS FURNISHED BY AM ☐ VENDOR ☒ REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				- Change Notice -			

This amendment to purchase order M-1257 is issued to incorporate the method of payment as stipulated in letter of May 25, 1971, from M.J. Leonard to Bank of American, Golden Cove Branch, 31176 Hawthorne Blvd., Palos Verdes Peninsula, Calif. 90274.

1. All funds received by American MARC from the sale of generator sets, manufactured by Teledyne Continental Motors, to the U.S. Government will be deposited to the special account at Bank of America which has been opened for this purpose.

OCT 19 19

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

CONTRACT NO. & PRIORITY	☐ CERTIFICATION REQUIRED	☐ MILL TEST REPORT REQUIRED	INSPECTION ☐ DESTINATION SOURCE ☐	QUAN. DEVIATION + − %	ORDER VALUE

PRICE, SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE, SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

OCT 13 1971 WALTERBORO

AMERICAN MARC DIVISION
EON CORPORATION

BY _____
PURCHASING AGENT

VENDOR

A 1102

Plaintiff's Exhibit 4A for Identification

AMERICAN MARC DIVISION
8831 South Aviation Boulevard
Inglewood, California 90301
EON CORPORATION
Area Code 213 776-2700

October 11, 1971

PURCHASE ORDER
THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. H-1257-3

TO
Teledyne Continental Motors
A Division of Teledyne Industries, Inc.
76 North Getty Street
Muskegon, Michigan 49443

SHIP TO

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS

NO ☒ YES ☐ RESALE PERMIT NO SR AS 12-612552	ACCT NO.	W. O. NO.	REQ. NO.	DELIVER TO

MATERIAL FURNISHED BY AM ☐ VENDOR ☐	OPERATION NUMBERS	TOOLS FURNISHED BY AM ☐ VENDOR ☐	REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				2. Teledyne Continental Motor's invoices will be sent to American MARC for generator sets shipped by TCM. American MARC will immediately invoice the U.S. Government for the units shipped. 3. American MARC will notify the Bank of America and TCM of the exact invoices and amounts that have been included in the American MARC request for payment from the U.S. Government. 4. When the funds are received, the check will be deposited in the special account and the Bank of Americawill be directed to pay the amount of the invoices, which were included in the payment check, directly to TCM by Cashier's Check.			

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM										
DATE										
QUAN										

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN. DEVIATION	ORDER VALUE
DAAK01-6[illegible]-C-1359	☒	☐	☐ DESTINATION SOURCE ☐	+ − %	

ACKNOWLEDGMENT COPY MUST BE SIGNED AND RETURNED TO INSURE PAYMENT
VENDOR HAS READ AND HEREBY ACCEPTS AND ABIDES BY ALL ARTICLES AND/OR CONDITIONS SET FORTH ON THE FRONT AND REVERSE SIDE OF THIS PURCHASE ORDER

DATE

VENDOR

BY

RETURN TO BUYER - AMERICAN MARC DIVISION
EON CORPORATION

ACKNOWLEDGEMENT COPY

A 1103

B-3

PLAINTIFF'S EXHIBIT 5A FOR IDENTIFICATION

AGREEMENT DATED MAY 12, 1971

AGREEMENT

This Agreement is made the 12th day of May, 1971, between EON Corporation, through its American Marc Division, 175 Pearl Street, Brooklyn, New York, (hereinafter called quote "EON"), and Teledyne Industries Inc., a California corporation, through its Teledyne Continental Motors Division, 30500 Van Dyke Ave., Warren, Michigan, (herein called quote "Teledyne").

WITNESSETH:

Whereas, EON intends to sub-contract to Teledyne the supply of 4372 - 1.5 K. W. engine Generator sets, Federal stock number 6115-889-1446 to the U. S. Government under EON's Government contract number DAAK01-69-C-14359 dated June 20, 1969, said sub-contracting being arranged through EON Purchase Order M 1 2 5 7 dated May 12, 1971 and;

Whereas, EON will have on hand on August 31, 1971, certain parts and material for said Generator sets;

Now, therefore, in consideration of the premises and the promises herein contained, the parties agree as follows:

1. EON agrees to sell and Teledyne agrees to purchase all of the 1.5 K. W. engine Generator set parts and material which are in reasonably good condition and not defective in any material respect which EON will have on hand on August 31, 1971. Teledyne's judgment, reasonably exercised as to the condition of said parts shall prevail.

2. EON agrees to have such parts and material, packed ready for prompt shipment no later than the close of business August 31, 1971. EON shall promptly ship such parts and material

EXB. A
DATE 9/20/72 For Ident.
H. PROKOP

to the destination indicated by Teledyne. Teledyne shall pay the shipping charges.

3. Teledyne shall pay EON a price for said parts and material equal to seventy-five (75%) percent of the inventory value. Inventory value is defined as EON cost as supported by their purchase orders which shall be attached hereto as Exhibit "B" on or before the day payment is due. Payment shall be made by Teledyne 30 days net after receipt of material to designated location. 196, 85-9 LL

4. EON shall promptly ship to Teledyne all government furnished equipment pertinent to the aforesaid Government Contract. Teledyne shall pay the shipping charges to the designated location.

5. EON agrees to sell and Teledyne agrees to purchase all the tooling, guages and equipment owned by EON which is in reasonably good and useful condition, ordinary wear and tear excepted, which is needed to perform the aforesaid Government Contract and which is listed in Attachment "A". The price is $25,000 which will be payable 30 days net after shipment to designated and/or assignment at Vendor (supplier) locations. Teledyne's judgment, reasonable exercised, as to the condition of said tooling, guages and equipment shall prevail.

6. EON agrees to provide to Teledyne copies of material purchase orders, tool drawings, test specifications, parts drawing and any other pertinent data developed as part of the execution of subject U. S. Government Contract.

A 1105

Plaintiff's Exhibit 5A for Identification

7. Notwithstanding any other provision herein, this Agreement shall be effective only upon issuance of a valid purchase order from EON to Teledyne, acceptable to Teledyne and the U. S. Government, for at least 4372 - 1.5 K. W. engine generator sets as agreed upon terms and conditions including price.

8. This contract is entered into in accordance with the law of the State of California and such law shall govern this contract.

EON CORPORATION
American Marc Division

By M. Hamad

Its V. Pres.

Nicholas Anton Pres.

TELEDYNE INDUSTRIES INC.
Teledyne Continental Motor Division

By Dan Lowe

Its Vice - President

A 1106

Plaintiff's Exhibit 5A for Identification

1.5 K.W. Turbine ...

IN ...

Fukuhara ...

Tools at Tenant's						
1321NE0101-3		Gusset				95
1321SE0288		Mtg. Bracket-R.H.				1495
1321NE0102		" "	L.H.			1495
1321NE0101-8		Gusset				95
1321NE0103		Mtg. Bracket				1475
1321NE0101-11		Gusset				130
1321NE0256		Bottom Bracket				1000
1321NE0385		Top "				1125
1321NE0116		Brace				1100
1321SE0117-1		Case				400
" -2		Top Plate				400
1321NE0396		Control Box & Junction				2900
1321NE0270-1		Vol. Regulation Case				1950
1321NE0271		Vol. Transformer Case				1950
1321NE0283		Strap				122
1321NE0282		"				222
1321NE0120		Washer				88
1321NE0119		"				63
1321NE0107		Brace				525
1321NE0105		Lock Plate				56
1321NE0104		Mtg. Rail				390
1321NE0125-2		Flange				120
1321NE0104		Mtg. Rail				390
1321NE0101		Frame				1100
						27991
Inspection and Tests						4133
Small Tools, Test Equip., Mil. Spec. Etc.						
Amortized over Contract						1780
Unknown - non Direct Labor Costing						
Amortized over Contract						1700
						6911
Amortized over 5411 Units						1
Cost per Unit						5411

DON'T

EXHIBIT A

A 1107

Plaintiff's Exhibit 5A for Identification

1.5 K.W. TOOLING [illegible]

FEBRUARY [illegible]

LINE NO		
1	MILL & DRILL FIXTURE - MTG. PLT.	1963
2	PUSH OUT FIXTURE - PRESS NUTS IN SHAFTS	170
3	WESTON FREQUENCY METER	385
4	" AMMETER	150
5	" KILOWATT METER	165
6	" VOLTMETER	165
7	" AMMETER	150
8	" KILOWATT METER	165
9	" VOLTMETER	150
10	DC POLYRANGER	165
11	" "	155
12	VOLTAGE & FREQUENCY MONITOR	1350
13	" " "	2148
14	" " "	2148
15	WHEATSTONE BRIDGE	125
16	WESTON VOLTMETER	135
17	EPUT METER	185
18	TEMPERATURE RECORDER	75
19	WAVE ANALYZER	350
20	WHEATSTONE BRIDGE	125
21	GYROTEST	400
22	AMMETER	150
23	KILOWATT METER	165
24	" "	150
25	RECTI-RITER	2722
26	STROBOTAC	125
27	STROBOLUX	125
28	3 CURRENT TRANSFORMERS	105
29	FREQUENCY RECORDER	150
30	3 LOAD TEST STANDS	1050
31	4 MOUNTING FIXTURES	5470
32	3 LOAD TEST STANDS	1500
33	2 PORTABLE LOAD STANDS	700
34		
35		23256

EXHIBIT A

A 1108

PLAINTIFF'S EXHIBIT 6

LETTER DATED MAY 13, 1971

CONTINENTAL MOTORS
205 MARKET STREET
MUSKEGON, MICHIGAN 49443
(616) 724-2151 CABLE: CONTENT

May 13, 1971

Mr. M. J. Leonard
Vice President
EON Corporation
American MARC Division
8831 So. Aviation Blvd.
Inglewood, California 90301

Dear Jim:

This letter is to confirm the agreements made between Messrs. Leonard, Anton, Coleman and Rouse in the meeting May 12, 1971 relative to the subcontracting of 4,372 1.5 KW generator sets to Teledyne Continental Motors. These agreements are in addition to those on your purchase order number M-1257 and agreement dated May 12, 1971 between EON and Teledyne Continental Motors.

1. EON will arrange with Bank of America to hold funds received from 1.5 KW generator sales, covered on EON Purchase Order No. M-1257 in a special account, which will be used to pay TCM invoices. Mr. Leonard to confirm this, in writing, to exact arrangements, etc.

2. EON will contact the St. Louis, Missouri U.S. Government Contracting Officer the week of May 14, 1971, informing him of the subcontracting of the 4,372 units to TCM and request the transfer of inspection responsibility to the district that covers the Teledyne, Walterboro, South Carolina plant.

   Mr. Leonard is to notify TCM if a TCM representative should attend the meeting in St. Louis (if a meeting is required).

3. TCM is to review EON purchase orders to determine which open orders TCM wants to assume and will so notify EON by May 18, 1971. EON will issue a stop work or a reassignment to TCM on the purchase orders that TCM desires to assume and will issue a cancellation on all other open purchase orders as they desire.

A 1109

Plaintiff's Exhibit 6

4. If due to a purchase order cancellation a vendor requests a termination charge, TCM agrees to work with EON to reduce their liability. EON and TCM will review the price and if TCM can purchase cheaper from another bonafide vendor, EON will sell at TCM's price.

5. EON will split off from their present stock in Englewood, Brooklyn or others, the material and parts required to complete their portion of the contract, and will inspect, count, and prepare the balance of the material for shipment to TCM's Walterboro plant. EON to notify us when material is ready for preparation so TCM's representatives can be present (if we desire) to inspect and coordinate the shipment.

I think the above represents the discussions and agreements that were made in our meeting. Please sign and return a copy for our file.

I called Mr. Art Erlinger, President of Teledyne Wisconsin Motor today in regards to EON's air cooled engines and the surplus machine tools. He agreed to call you within the next few days to discuss his interest.

Jim, it certainly was a pleasure meeting you, Mr. Anton and your staff. We are extremely pleased with the subcontract negotiation and will handle the contract in a manner which will be a credit to EON and TCM.

If you run into any potential business that you feel would interest us, please give me a call.

Acknowledged & Accepted: per my letter report May 25th attached

Date: 5-25-71

Sincerely,

H. W. Rouse
Vice President, Operations

PS. Enclosed are a few of my business cards (which I didn't have with me).

CC: Messrs. E. Kotts, W.E. Lewis, H. Coleman, File

A 1110

PLAINTIFF'S EXHIBIT 7

LETTER DATED MAY 25, 1971

AMERICAN MARC
DIVISION EON CORPORATION

3831 SOUTH AVIATION BLVD., INGLEWOOD, CALIFORNIA 90301

AREA CODE 213 PHONE XXXXXX
776-2700

May 25, 1971

Mr. Homer F. Coleman
Teledyne Continental Motors
1000 Ryan Avenue
Walterboro, South Carolina 29488

Dear Homer:

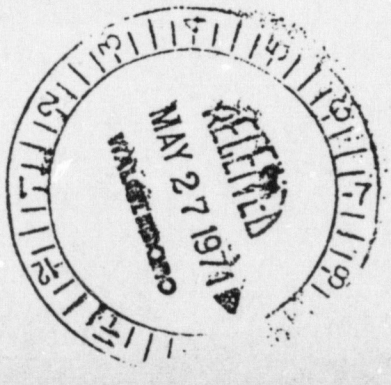
Just a note to thank you and your people for a fine visit with the usual Southern Hospitality.

Wally and I have gone over the plans that he and Ben worked out on the purchase order situation and the arrangement is satisfactory to us. We will proceed to make out the American Marc change orders and send them to TCM so that they can be forwarded simultaneously with your take over P.O. Where we are cancelling a vendor and you are not taking over we will take care of those directly from here.

In the special case of Phaostron on the meters for the control box you will issue the order as we discussed and American Marc's requirements at EON Corporation, New York, will be paid for by American Marc.

Production will immediately begin pulling the American Marc requirements from the inventory and we will look forward to seeing you and Dick Campbell on June 1. At that time we will begin delivery of the balance of the inventory to your truck.

According to our plan worked out with you at Walterboro, American Marc and EON--New York will on May 31, 1971 take a physical inventory and this can be spot checked by Dick Campbell during his visit.



A 1111

Plaintiff's Exhibit 7

The inventory will from that date forward be held in three positions or bond:

1) The amount necessary for American Marc and EON-New York to complete production up to approximately 4450 units (600 units approximately).

2) The amount in inventory over the 4450 requirements on May 31, 1971, will be put in a separate bonded storage for shipment to the instructions of TCM.

3) Material received at American Marc or EON-New York after June 1. 1971, will be held in separate bonded storage for shipment to the instructions of TCM or will be shipped directly to Walterboro for TCM's account.

This method of cut off and transfer will allow TCM to begin manufacturing at their convenience rather than wait for an August 31 date and then try to ship on schedule. Mr. R. Walck will be our contact point for documentation of all inventory of finished good and work in process, as well as, all shippers and receiving reports. Copies of all documents will be forwarded weekly as we go along so that your Purchasing and Production Control as well as, Accounting will know where they are on the program.

In accordance with TCM letter of May 13, 1971 from H. Rouse, I believe the above takes care of all but Paragraph 1 and 2. In regard to Paragraph 1, Mr. Leonard has arranged for the Bank of America to hold funds received from 1.5 generator sales in a special account which will be used to pay TCM invoices. (See letter attached)

On Paragraph 2 as you know, I called St. Louis and have been asked to come into their offices on Thursday, May 27, 1971. A copy of the P.O. requesting Government Source Inspection at Walterboro was given to our QAR representative.

I will call you if there are any questions at St. Louis that I cannot answer.

A 1112

Plaintiff's Exhibit 7

Thanks again for your cooperation and if we can be helpful in any way, let us know.

Sincerely yours,

AMERICAN MARC DIVISION
EON CORPORATION

M. J. Leonard
Vice President-General Manager

MJL:ir

Enclosure

cc: Mr. H. W. Rouse

A 1113

PLAINTIFF'S EXHIBIT 8

LETTER DATED MAY 25, 1971

AMERICAN MARC
DIVISION EON CORPORATION
5551 SOUTH AVIATION BLVD. INGLEWOOD CALIFORNIA 90301
AREA CODE 213 PHONE XXXXX
776-2700

May 25, 1971

Bank of America
Golden Cove - Palos Verdes Branch
31176 Hawthorne Boulevard
Palos Verdes Peninsula, California 90274

Attention: Mrs. Fern Guy

Dear Mrs. Guy:

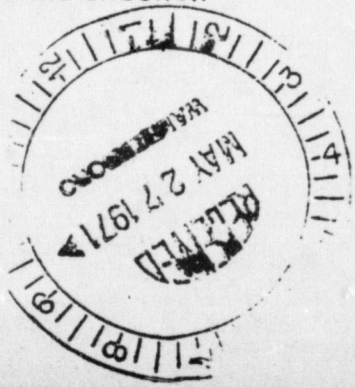
American Marc Division of EON Corporation has issued P.O. No. M-1257 to Teledyne Continental Motors, 1000 Ryan Avenue, Walterboro, South Carolina to produce approximately 4000 generator sets.

Accordingly we have agreed to have all funds received by American Marc from the sale of these generator sets to the U. S. Government held in our special account which we have opened at the Bank of America for this purpose.

Teledyne Continental Motors' invoices will be sent to American Marc for generator sets as they are produced and shipped by TCM. American Marc will immediately invoice the U. S. Government for the units shipped.

American Marc will notify the Bank of America and TCM the exact invoices and amounts that have been included in the American Marc request for payment from the U. S. Government.

When the funds are received, the check will be deposited in the special account and the Bank will be directed to use the funds to pay the amounts of the invoices, which were included in the payment check, directly to TCM by cashiers check. The balance in the account will be dispursed according to the direction of American Marc Division of EON Corporation.



A 1114

Plaintiff's Exhibit 8

We appreciate your courtesy extended to American Marc and TCM in this regard.

Sincerely,

AMERICAN MARC DIVISION
EON CORPORATION

M. J. Leonard
Vice President-General Manager

MJL:ir

A 1115

PLAINTIFF'S EXHIBIT 9

LETTER DATED OCTOBER 11, 1971

AMERICAN MARC
DIVISION EON CORPORATION

8851 SOUTH AVIATION BLVD., INGLEWOOD, CALIFORNIA 90301

AREA CODE 213 PHONE 678-7174

October 11, 1971

Mr. Homer Coleman
Teledyne Continental Motors
1000 Ryan Avenue
Walterboro, South Carolina 29488

Dear Homer:

SUBJECT: Method of payment to TCM on P.O. M-1257

In the Agreements and Purchase Order signed and dated 5-12-71 and in the letter of 5-13-71 signed by Mr. Rouse and replied to by Mr. Leonard 5-25-71 the method of payment agreed upon was resolved.

On 10-9-71, five months later TCM appears to be confused or is at this late date trying to make a different deal with American Marc.

For the record you and Harold will remember, we pointed out from our first meetings that American Marc had no money from which to pay TCM except when it received money from the Government as progress payments, after the shipment or sale of generators had been made, the invoice included in the request for progress payment and the government sending us a progress payment check for that specific billing.

In accordance with the above understanding, TCM asked in the May 13, 1971 letter to arrange with the Bank of America "to hold funds received from 1.5 KW generator sales, covered on EON P.O. No. M-1257 in a special account, which will be used to pay TCM invoices." On May 25, 1971, the writer sent you a copy of the arrangment set up at the Bank of America as requested. On 10-8-71 your "Financial Man from Muskegon" called and asked you to get that arrangement with the Bank of America into the P.O. On that date I called Mr. Walck at American Marc and P.O. 1257-9 was issued to cover this request. (Copy attached)

A 1116

Plaintiff's Exhibit 9

On 10-9-71, Mr. Anderson handed me a letter dated 10-9-71 in which Paragraph 8 asked for written confirmation of his verbal agreement regarding invoicing procedures which we had discussed in our meeting in New York City, 9-1-71. Again for the record I told Mr. Anderson when he asked for "Progress Payments" for TCM in New York the same story as related to Messrs. Rouse and Coleman, "We can only pay you after we have been paid." He, I thought, understood this thoroughly since he then went into a song and dance about invoicing American Marc when the units were bought off in test as a lot and before final buy off, packaging and shipment.

In our meeting of 10-9-71, attended by you and Dick Campbell, I again agreed to the method of invoicing American Marc at the time of the lot test being accepted by the government QAR and stamped off. I did, however, again point out that this would get the invoice from TCM into the system earlier and would probably shorten the payment period by a few weeks.

However, again for the record I explained to all present that the sale, invoice, request for progress payment, payment by Government of Progress Payment, and then "skimming" of the money due TCM from that payment to TCM by the Bank of America, procedure would be followed by American Marc. Therefore, under Paragraph 8 (a) of the Anderson letter as I agreed to do at the meeting and signed the letter accordingly; we have changed the P.O. to reflect the Bank of America and payment arrangement by P.O. Change No. M 1257-9 dated 10-11-71. (Copy attached) I hope this letter clarifies the arrangement as far as invoicing is concerned.

Under Paragraph 8 (b), I have checked this request which incidentally was not discussed in New York and is a new subject, with Mr. Walck our Controller and he and I recommend that TCM on Item 0017 and 0018 invoice on a regular basis as Dick Campbell suggested (TCM accounting periods). American Marc will immediately upon receipt of invoice include the face amount in the next progress payment request. We will advise TCM and the Bank of American of the amount and the Invoice No. and the Progress Payment No. with advice to pay direct by cashier's check upon receipt of appropiate progress payment check from the Government. We will issue a P.O. change to include this if you want it in addition to this letter of clarification.

A 1117

Plaintiff's Exhibit 9

Paragraph 8 (c) in accordance with all previous disclosures, agreements, and the facts of life is out of order in relation to this P.O. and contract except as implied in the original P.O. No. M 1257 where the Terms: block on the upper right hand corner indicates the normal business payment statement "Net 30 days."

As I pointed out to your Mr. Anderson, "an honest contract with an honest man or company" is worth 1000 unreasonable contracts with a disreputable concern.

We will pay you as we agreed and you have the largest bank in California acting as a monitor in your behalf, any other agreement or veiled threats are meaningless.

Sincerely,

M. J. Leonard
Vice President-General Manager

MJL:ir

Enclosures

cc: Mr. Harold Rouse

A 1118

PLAINTIFF'S EXHIBIT 12

COPIES OF FOUR CHECKS

GOLDEN COVE PALOS VERDES BRANCH
Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION
PALOS VERDES PENINSULA, CALIFORNIA

2 No. 0796 05427

DATE 7 25 MAR 11 72 ... 80-2514 / 1222

PAY TO THE ORDER OF TELEDYNE CONTINENTAL MOTORS ... $51,000.00

FIFTY-ONE THOUSAND AND 00/100 ... DOLLARS

CASHIER'S CHECK

Philip L. McNally
VICE PRES. ASST. CASHIER - MANAGER

⑈005427⑈ ⑆1222-2514⑆ 07962-85100⑈

Paid 1/20/72

Posted 2-1-72 lw

Inv. # 2027

A 1119

Plaintiff's Exhibit 12

GOLDEN COVE PALOS VERDES BRANCH

Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION
PALOS VERDES PENINSULA, CALIFORNIA

No. 0796 05487

DATE 796FEB 8 72 — 20-2514 / 1222

PAY TO THE ORDER OF TELEDYNE CONTINENTAL MOTORS ********** $162,000.00

Bank of America 162000dls00cts DOLLARS

CASHIER'S CHECK — Fern Guy

⑈005487⑈ ⑆1222-2514⑆ 07962-85100⑈

Pd 2115172

Cable Address — BANKAMERICA

Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION

GOLDEN COVE-PALOS VERDES BRANCH • 31176 HAWTHORNE BOULEVARD
PALOS VERDES PENINSULA, CALIFORNIA 90274

February 9, 1972

Teledyne Continental Motors
Rt 3 Box 40
Walterboro, So. Carolina 29488

Gentlemen:

Enclosed please find Cashier's Check #796-05487 for $162,000.00 from American Marc by the order of M. J. Leonard.

Yours truly,

Fern Guy

Fern Guy (Mrs.)
Manager

vp
encl.

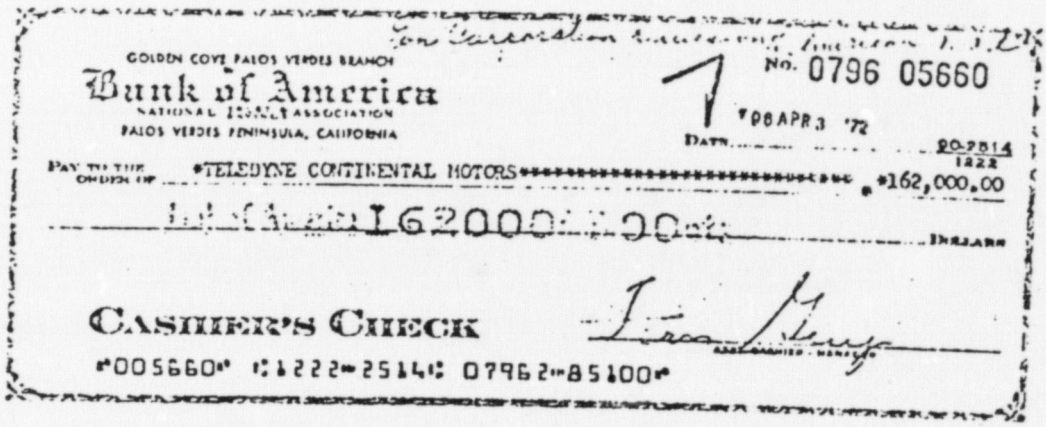
Inv. # 2029
20.49
42.50

Printed 2-29-72

EK-91505

A 1120

Plaintiff's Exhibit 12



GOLDEN COVE PALOS VERDES BRANCH

Bank of America

NATIONAL TRUST ASSOCIATION

PALOS VERDES PENINSULA, CALIFORNIA

No. 0796 05660

DATE APR 3 '72

20-7814
1222

PAY TO THE ORDER OF *TELEDYNE CONTINENTAL MOTORS* $*162,000.00

[illegible]162000[illegible] DOLLARS

CASHIER'S CHECK

[signature]

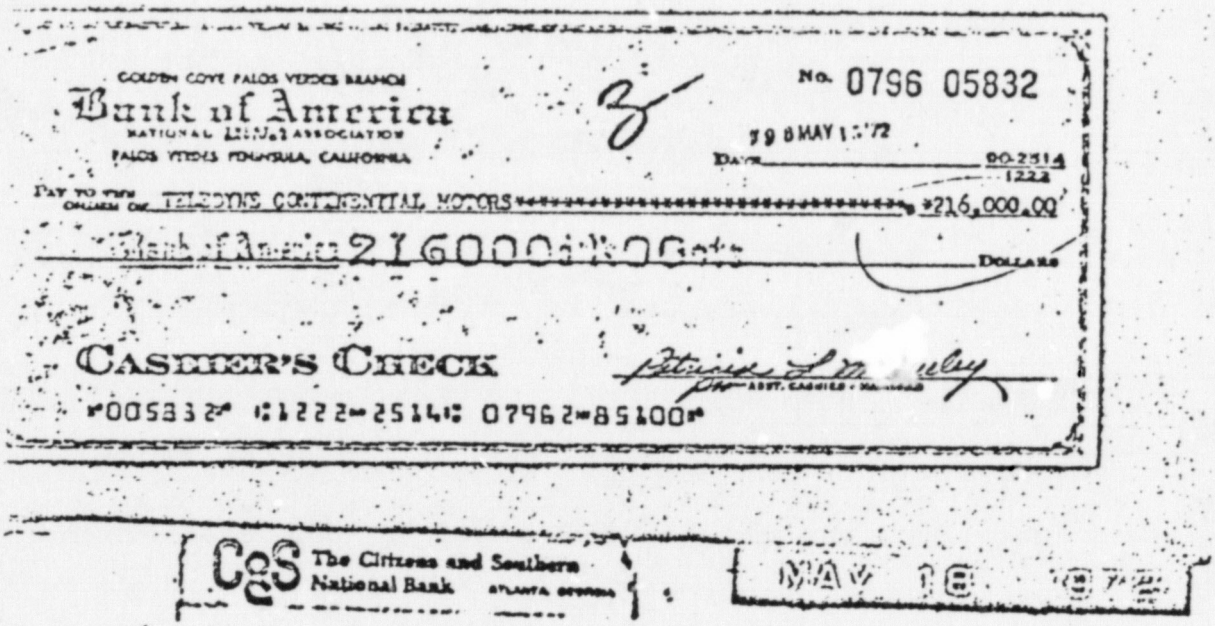
AUTHORIZED SIGNATURE

005660 :1222-2514: 07962-85100*

Posted
4-21-72
BB-

A 1121

Plaintiff's Exhibit 12



GOLDEN COVE PALOS VERDES BRANCH
Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
PALOS VERDES PENINSULA, CALIFORNIA

No. 0796 05832

DATE 19 MAY 1972 — 80-2514 / 1222

PAY TO THE ORDER OF TELEDYNE CONTINENTAL MOTORS $216,000.00

Bank of America 216000 00 Cts — DOLLARS

CASHIER'S CHECK

Patricia L. Manley
ASST. CASHIER - MANAGER

⑈005832⑈ ⑆1222-2514⑆ 07962-85100⑈

C&S The Citizens and Southern National Bank ATLANTA GEORGIA

MAY 18 1972

AMERICAN MARC:

Invoice No.	Amount
1704	$ 72,720.00
1705	143,280.00
TOTAL	$216,000.00

Posted 5-26-72 BB

Paid 5/18/72

Accounting Dept. - Walterboro

821572.65
216.000.00
605572.65
821572.65

A 1122

PLAINTIFF'S EXHIBIT 17

STATEMENT OF ACCOUNT

BANK OF AMERICA

PERIOD ENDING
JAN. 31, 1972

STATEMENT OF ACCOUNT WITH
GOLDEN COVE-PALOS VERDES P.
PALOS VERDES CAL. 90274

ONLY COPY AVAILABLE

ACCOUNT NO.
C7568[illegible]0245

AMERICAN NAVC
INVESCO CORP
[illegible] SO AVIATION BLVD
INGLEWOOD CALIF 90301

Clip along this line when sending a change of address - See reverse

CHECKS - LISTED IN ORDER OF PAYMENT - READ ACROSS				DEPOSITS	DATE	NEW BALANCE
				9240		
				323693	JAN 6	1955017
					JAN 7	1939517
15900					JAN 10	1918242
19375	50000	[illegible]900				
4440	47000	5[illegible]000		106398	JAN 13	1821170
1059	2750	8[illegible]29	30000	6163382		
400000	5400000				JAN 14	2144[illegible]
6174	19475	50000		25515	JAN 17	2094[illegible]
				24246	JAN 18	2208300
6000	9436	57292			JAN 21	2040672
				1782104	JAN 26	3822776
20677	70000				JAN 31	3732099

SUMMARY OF ACTIVITY

BALANCE FORWARD	DEBITS NUMBER	DEBITS AMOUNT	CREDITS NUMBER	CREDITS AMOUNT	SERVICE CHARGE ITEMS	SERVICE CHARGE AMOUNT	NEW BALANCE
1262284	22	6316503	7	8426518			3732099

Please examine this statement at once. If no error is reported in ten days the account will be considered correct. All items are credited subject to final payment.

ENCLOSURES 21

USE REVERSE SIDE FOR
CONCILING YOUR ACCOUNT

EXPLANATION OF SYMBOLS

R REVERSING ENTRY
M MISCELLANEOUS ENTRY
N NO TICKET ENTRY
F FOLLOW SHEET
S SERVICE CHARGE
T TENPLAN CHARGE
A AUTOMATIC PAYROLL ENTRY
OD OVERDRAFT
B INSTANT CASH ENTRY

Please use the upper portion of this statement (or other written notification) to advise us of your change of address.

PLFT'S EX. 17 (A.D)
11/22/72 NP.

A 1123

Plaintiff's Exhibit 17

BANK OF AMERICA

GOLDEN COVE-PALOS VERDES

PALOS VERDES CAL. 90274

PERIOD ENDING
FEB 11, 1972

BRANCH PHONE NO.
213-377-7811

Please call us if you have any questions about this statement

AMERICAN MARC
DIV FON CORP
8831 SO AVIATION BLVD
INGLEWOOD CA 90301

NEW CHECK ORDERS ARE BEING CODED SO THAT CHECK NUMBERS WILL APPEAR ON YOUR STATEMENTS AS SOON AS THE NEW CHECKS ARE USED.

SUMMARY OF ACCOUNT

ACCOUNT NUMBER	CHECKS		DEPOSITS		NEW BALANCE
	Number	Amount	Number	Amount	
CHECKING 0796-8-00235	17	19573964	3	16849700	10?7835

ACCOUNT ACTIVITY

(Use Reverse Side for Reconciling to Your Records)

CHECKS / AND OTHER DEBIT ITEMS						DEPOSITS	
Check Number	DATE PAID	Amount	Check Number	DATE PAID	Amount	Date	Amount
	2 1	32736				2 1	20038
	2 2	5200				2 8	16814182
	2 3	2625				2 9	15480
	2 3	4200					
	2 3	30000					
	2 4	11200					
	2 8	3787					
	2 8	30000					
	2 8	900000					
	2 9	2300000					
	2 9	16200000					
	2 10	505					
	2 10	1450					
	2 10	4156					
	2 11	6300					
	2 11	16800					
	2 11	25000					

3007

PREVIOUS BALANCE	BALANCE FOR SERVICE CHARGE	ENCLOSURES
$37,320.99		17

Explanation of Symbols: * Gap in Check Sequence B BankAmericard Instant Cash M Miscellaneous
A Automatic Transfer R Reversing Entry OD Overdrawn

ER-1 2-71

A 1124

Plaintiff's Exhibit 17

STATEMENT OF ACCOUNT WITH
GOLDEN COVE-PALOS VERDES ET.
PALOS VERDES CAL. 90274

BANK OF AMERICA

ONLY COPY AVAILABLE

PERIOD ENDING
FEB. 29, 1972

ACCOUNT NO.

Clip along this line when sending a change of address - See reverse

CHECKS - LISTED IN ORDER OF PAYMENT READ ACROSS				DEPOSITS	DATE	NEW BALANCE
1750	3150	51000	375000			
37898					22	2835502
27000					23	2835502
32500					24	2775002
13200					25	2762802
4248				14027	28	2776827
750	900	2591699			29	184778
				1934938		

27,579.95

10078.35
19349.38
29427.73
27579.95
1847.78

SUMMARY OF ACTIVITY

BALANCE FORWARD	DEBITS NUMBER	DEBITS AMOUNT	CREDITS NUMBER	CREDITS AMOUNT	SERVICE CHARGE ITEMS	SERVICE CHARGE AMOUNT	NEW BALANCE
10078.35	12	27579.95	2	19349.38			184778

Please examine this statement at once. If no error is reported in ten days the account will be considered co[illegible]. All items are credited subject to final payment.

USE REVERSE SIDE FOR RECONCILING YOUR ACCOUNT

EXPLANATION OF SYMBOLS

R REVERSING ENTRY
M MISCELLANEOUS ENTRY
N NO TICKET ENTRY
F FOLLOW SHEET
S SERVICE CHARGE
T TENPLAN CHARGE
A AUTOMATIC PAYROLL ENTRY
OD OVERDRAFT
B INSTANT CASH ENTRY

ENCLOSURES 12

Please use the upper portion of this statement (or other written notification) to advise us of your change of address.

A 1125

PLAINTIFF'S EXHIBIT 18

STATEMENT OF ACCOUNT

MTN'S FR 30(a)(6)
11/20/73 AP

BANK OF AMERICA

GOLDEN COVE-PALOS VERDES BR.

PALOS VERDES CAL. 90274

PERIOD ENDING
FEB 29, 1972

BRANCH PHONE NO.
213-377-7811

Please call us if you have any questions about this statement

EON CORPORATION
AMERICAN HARC DIVISION
175 PEARL STREET
BROOKLYN NY 11201

NEW CHECK ORDERS ARE BEING CODED SO THAT CHECK NUMBERS WILL APPEAR ON YOUR STATEMENTS AS SOON AS THE NEW CHECKS ARE USED.

SUMMARY OF ACCOUNT

ACCOUNT NUMBER	CHECKS		DEPOSITS		NEW BALANCE
	Number	Amount	Number	Amount	
CHECKING 0796-6-00038	0	00	2	4891699	4891699

ACCOUNT ACTIVITY

(Use Reverse Side for Reconciling to Your Records)

CHECKS / AND OTHER DEBIT ITEMS						DEPOSITS	
Check Number	DATE PAID	Amount	Check Number	DATE PAID	Amount	Date	Amount
					✓	2 9	2300000
					✓	229	2591699

PREVIOUS BALANCE	BALANCE FOR SERVICE CHARGE	ENCLOSURES
0.00		0

Explanation of Symbols: * Gap in Check Sequence B BankAmericard Instant Cash M Miscellaneous
. . . . A Automatic Transfer R Reversing Entry OD Overdrawn

A 1126

Plaintiff's Exhibit 18

BANK OF AMERICA

GOLDEN COVE-PALOS VERDES BR.

PALOS VERDES CAL. 90274

PERIOD ENDING
MAR 22, 1972

BRANCH PHONE NO.
213-377-7811

Please call us if you have any questions about this statement

ECN CORPORATION
AMERICAN MARC DIVISION
175 PEARL STREET
BROOKLYN NY 11201

NEW CHECK ORDERS ARE BEING CODED SO THAT CHECK NUMBERS WILL APPEAR ON YOUR STATEMENTS AS SOON AS THE NEW CHECKS ARE USED.

SUMMARY OF ACCOUNT

ACCOUNT NUMBER	CHECKS Number	CHECKS Amount	DEPOSITS Number	DEPOSITS Amount	NEW BALANCE
CHECKING 0796-6-00038	0	00	0	00	22041512

ACCOUNT ACTIVITY
(Use Reverse Side for Reconciling to Your Records)

CHECKS / AND OTHER DEBIT ITEMS						DEPOSITS	
Check Number	DATE PAID	Amount	Check Number	DATE PAID	Amount	Date	Amount
2/8/72 Deposits		23000 —					
2/29	"	2596.99					
3/7	"	1042.72					
3/13	"	2110.34					
3/15	"	168 194.49					
3/17	"	998 30					
		229 299.84					
		220 415.12			542 72		

Difference on #38 4/c $8.78

PREVIOUS BALANCE	BALANCE FOR SERVICE CHARGE	ENCLOSURES
$220,415.12		5 c

Explanation of Symbols: * Gap in Check Sequence A Automatic Transfer B BankAmericard Instant Cash R Reversing Entry M Miscellaneous OD Overdrawn

ER-1 2-71

A 1127

Plaintiff's Exhibit 18

BANK OF AMERICA

GOLDEN COVE-PALOS VERDES BR.

PALOS VERDES CAL. 90274

PERIOD ENDING
MAR 31, 1972

BRANCH PHONE NO.
213-377-7811

Please call us if you have any questions about this statement

ECN CORPORATION
AMERICAN MARC DIVISION
175 PEARL STREET
BROOKLYN NY 11201

SUMMARY OF ACCOUNT

ACCOUNT NUMBER	CHECKS		DEPOSITS		NEW BALANCE
	Number	Amount	Number	Amount	
CHECKING 0796-6-[illegible]38	19	537525	1	100000	21603987

ACCOUNT ACTIVITY

(Use Reverse Side for Reconciling to Your Records)

CHECKS / AND OTHER DEBIT ITEMS						DEPOSITS	
Check Number	DATE PAID	Amount	Check Number	DATE PAID	Amount	Date	Amount
CK ORDER 3	324	611	1416			331	100000
CK ORDER 3	324	805	✓				
	327	72050	✓				
	328	225285	✓				
103	328	630	✓				
105*	328	12000	✓				
106	328	11361	✓				
108*	331	71083	✓				
109	327	4440	✓				
110	328	6174	✓				
111	328	1929	✓		162435.95		Bal Forward
112	328	21000	✓		5375 ✓		
114*	327	1200	✓		167811.20		Total Dep ✓
401*	330	9680	✓				
402	327	20790	✓				
403	328	30000	✓				
404	327	903	✓				
405	327	49000	✓				
408*	331	1285	✓				
		5375	25				
		220415.12 ✓					
		10427.84					
		211457.28					
		211457.28	84				

PREVIOUS BALANCE	BALANCE FOR SERVICE CHARGE	ENCLOSURES
$220,415.12		17

Explanation of Symbols: * Gap in Check Sequence B BankAmericard Instant Cash M Miscellaneous
A Automatic Transfer . . R Reversing Entry OD Overdrawn

ER-1 8-71

A 1128

Plaintiff's Exhibit 18

BANK OF AMERICA

PERIOD ENDING

BRANCH PHONE NO.

Please call us if you have any questions about this statement

SUMMARY OF ACCOUNT

ACCOUNT NUMBER	CHECKS		DEPOSITS		NEW BALANCE
	Number	Amount	Number	Amount	

ACCOUNT ACTIVITY

(Use Reverse Side for Reconciling to Your Records)

CHECKS/AND OTHER DEBIT ITEMS						DEPOSITS	
Check Number	DATE PAID	Amount	Check Number	DATE PAID	Amount	Date	Amount

449,638.55
432,237.64
17,401.21

PREVIOUS BALANCE	BALANCE FOR SERVICE CHARGE	ENCLOSURES

Explanation of Symbols: * Gap in Check Sequence B BankAmericard Instant Cash M Miscellaneous
A Automatic Transfer R Reversing Entry OD Overdrawn

FB-1 3-71

A 1129

Plaintiff's Exhibit 18

BANK OF AMERICA

GOLDEN COVE-PALOS VERDES BR.

PALOS VERDES CAL. 90274

PERIOD ENDING
MAY 31, 1972

BRANCH PHONE NO.
213-377-7811

Please call us if you have any questions about this statement

ECN CORPORATION
AMERICAN MARC DIVISION
175 PEARL STREET
BROOKLYN NY 11201

SUMMARY OF ACCOUNT

ACCOUNT NUMBER	CHECKS		DEPOSITS		NEW BALANCE
	Number	Amount	Number	Amount	
CHECKING 0796-6-00038	17	435459.12	2	9216	1427189

ACCOUNT ACTIVITY

(Use Reverse Side for Reconciling to Your Records)

CHECKS / AND OTHER DEBIT ITEMS						DEPOSITS	
Check Number	DATE PAID	Amount	Check Number	DATE PAID	Amount	Date	Amount
121	526	21600000				515	5516
413*	5 2	6000				525	3700
424*	515	21600000					
426*	5 5	15000					
428*	512	7500					
429	510	25000					
430	516	2050					
431	518	29981					
432	518	6221					
433	523	3828					
434	527	864					
435	517	4440					
436	516	10089					
439*	526	94635					
440	531	36960					
441	530	69000					
442	526	32344					

PREVIOUS BALANCE	BALANCE FOR SERVICE CHARGE	ENCLOSURES
$449,638.85		17

Explanation of Symbols: * Gap in Check Sequence B BankAmericard Instant Cash M Miscellaneous
A Automatic Transfer R Reversing Entry OD Overdrawn

ER-1 8-71

A 1130

Plaintiff's Exhibit 18

BANK OF AMERICA

The Timesaver Statement

GOLDEN COVE-PALOS VERDES BR.

PALOS VERDES CAL. 90274

PERIOD ENDING
JUN 30, 1972

BRANCH PHONE NO
213-377-7811

Please call us if you have any questions about this statement

EON CORPORATION
AMERICAN MARC DIVISION
175 PEARL STREET
BROOKLYN NY 11201

A SUMMARY OF YOUR VARIOUS SAVINGS ACCOUNTS CAN BE ADDED TO THIS STATEMENT. JUST ASK AT YOUR BRANCH.

SUMMARY OF BANKING SERVICES

TYPE OF SERVICE	ACCOUNT NO.	CHECKS DEBITS NO.	CHECKS DEBITS AMOUNT	DEPOSITS NO.	DEPOSITS AMOUNT	NEW BALANCE
CHECKING	0796-6-00038	24	371797	4	31196	1086588

CHECKING ACCOUNT ACTIVITY (USE REVERSE SIDE FOR RECONCILING TO YOUR RECORDS)

CHECKS AND OTHER DEBITS						DEPOSITS	
CHECK NO.	DATE PAID	AMOUNT	CHECK NO.	DATE PAID	AMOUNT	DATE	AMOUNT
	621	14720				6 2	7500
438	626	51427				6 6	5630
443*	620	6570				615	8766
444	616	23800				619	9300
445	622	1500					31196
446	619	3600					
447	619	1510					
448	616	6000					
449	620	6570					
450	616	13012					
451	619	36860					
452	616	24940					
453	616	45100					
454	616	20160					
455	616	1940					
456	619	864					
457	616	10353					
458	619	36960					
459	619	2102					
461*	623	40544					
463*	626	3110					
464	627	14115					
465	626	4440					
467*	623	1600					

PREVIOUS BALANCE	AMOUNT OF ENTRIES YOU AUTHORIZED DEBITS	CREDITS	MINIMUM AVERAGE BALANCE	ENCLOSURES
$14,771.89			$13089.00AV	24

A 1131

Plaintiff's Exhibit 18

BANK OF AMERICA — The Timesaver Statement

GOLDEN COVE-PALOS VERDES BR.

PALOS VERDES CAL. 90274

PERIOD ENDING
JUL 31, 1972

BRANCH PHONE NO.
213-377-7611

Please call us if you have an questions about this statement

E&N CORPORATION
AMERICAN MARC DIVISION
175 PEARL STREET
BROOKLYN NY 11201

A SUMMARY OF YOUR VARIOUS SAVINGS ACCOUNTS CAN BE ADDED TO THIS STATEMENT. JUST ASK AT YOUR BRANCH.

SUMMARY OF BANKING SERVICES

TYPE OF SERVICE	ACCOUNT NO.	CHECKS / DEBITS NO.	CHECKS / DEBITS AMOUNT	DEPOSITS NO.	DEPOSITS AMOUNT	NEW BALANCE
CHECKING	0796-6-00038	3	711750	0	00	374838

CHECKING ACCOUNT ACTIVITY (USE REVERSE SIDE FOR RECONCILING TO YOUR RECORDS)

CHECKS AND OTHER DEBITS						DEPOSITS	
CHECK NO.	DATE PAID	AMOUNT	CHECK NO.	DATE PAID	AMOUNT	DATE	AMOUNT
122	7 3	640000					
462*	7 5	2750					
466*	712	69000					

711750

1088 / 10711750 / 3738

PREVIOUS BALANCE	AMOUNT OF ENTRIES YOU AUTHORIZED DEBITS	CREDITS	MINIMUM AVERAGE BALANCE	ENCLOSURES
$10,865.98			$4409.00AV	3

Key to Symbols: * Gap in Check Sequence; ** Includes Interest Payment Last Period; Δ Automatic Deposit; B BankAmericard® Instant Cash; R Reversing Entry; M Miscellaneous; OD Overdrawn

A 1132

Plaintiff's Exhibit 18

BANK OF AMERICA — The Timesaver Statement

GOLDEN COVE-PALOS VERDES BR.
PALOS VERDES CAL. 90274

PERIOD ENDING
AUG 31, 1972
BRANCH PHONE NO.
213-377-7811

Please call us if you have any questions about this statement

GDV CORPORATION
AMERICAN MARC DIVISION
17[illegible] PEARL STREET
BROOKLYN NY 11201

A SUMMARY OF YOUR VARIOUS SAVINGS ACCOUNTS CAN BE ADDED TO YOUR STATEMENT. JUST ASK AT YOUR BANK.

SUMMARY OF BANKING SERVICES

TYPE OF SERVICE	ACCOUNT NO.	CHECKS DEBITS NO.	CHECKS DEBITS AMOUNT	DEPOSITS NO.	DEPOSITS AMOUNT	NEW BALANCE
CHECKING	0796-6-00038	0	00	0	00	374838

CHECKING ACCOUNT ACTIVITY (USE REVERSE SIDE FOR RECONCILING TO YOUR RECORDS)

CHECKS AND OTHER DEBITS						DEPOSITS	
CHECK NO.	DATE PAID	AMOUNT	CHECK NO.	DATE PAID	AMOUNT	DATE	AMOUNT

A 1133

PLAINTIFF'S EXHIBIT 32

LETTER DATED FEBRUARY 22, 1972

VIA AIRMAIL

CABLE ADDRESS — BANKAMERICA

Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION

February 22, 1972

PLFT'S EX. 25 (A.D)
11/30/72 N.F.

EON Corporation
American Marc Division
175 Pearl Street
Brooklyn, New York 11201

Attention: Mr. Anton

Gentlemen:

Please sign the enclosed card and return to us immediately. Also give me authorization to close the account we recently opened (6-38) and we shall deposit the $23,000.00 into the EON Corporation, American Marc Division account.

We are sorry for any confusion, but we can straighten all of it out.

Thanks again for your cooperation, and feel free to let us help you anytime.

Sincerely,

(Mrs.) Fern Guy
Manager

FG/ebl
Encl.

A 1134

Plaintiff's Exhibit 32

SIGNATURE CARD: ☐ CORPORATION ☐ LODGE, ASSOCIATION

The organization named below, as depositor, enters into this bank depositor agreement with BANK OF AMERICA National Trust and Savings Association and agrees that this account shall be carried by said bank as a

☐ CHECKING account and that all funds on deposit in said account shall be governed by said Bank's by-laws, all future amendments thereof, all regulations passed or

☐ SAVINGS hereafter to be passed by its Board of Directors pursuant to said by-laws, and by all rules and practices as to interest and service charges of said Bank relating to said account. Depositor authorizes said Bank to endorse checks, when presented for deposit to said account, if presented unendorsed. Depositor agrees that this agreement shall be governed by the National Banking laws and the law of the State of California. Depositor further agrees that checks may be paid when signed and countersigned with the signature(s) indicated.

Eon Corporation-American Marc Division

(Name of Depositor)

BY X _____ and X _____

(Signature) President (Signature) Secretary

STREET ADDRESS 175 Pearl Street Brooklyn CITY New York 11201

BUSINESS Manufacture small parts TELEPHONE 212-858-0250

Said Bank is hereby authorized to:

☐ MAIL all statements, vouchers and notices to the address indicated above.

☐ HOLD all statements, vouchers and notices until called for, if not called for after 30 days said Bank may mail statements, etc., to the address indicated above. If the above mailed statements, vouchers and notices are returned undelivered, said Bank is hereby authorized to destroy same two (2) years thereafter.

Bank is [illegible] items sent to the U.S. Mail [illegible], or not called for by the depositor.

Eon Corporation
Division of American Marc

0-435

Number of Signatures Required 2

TAX ACCT NUMBER 07[illegible]

Any two jointly

Checks to be signed by nos. _____ Checks to be countersigned by nos. _____

AUTHORIZED SIGNATURES:

1. X _____ (Title)

2. X _____ (Title)

3. X _____ (Title)

4. X _____ (Title)

5. _____ (Title)

(OVER)

A 1135

PLAINTIFF'S EXHIBIT 34

INCOME AND DUSBURSEMENTS

PLT'S EX. 22(.d)
11/22/82 AJ.

INCOME AND DISBURSEMENTS
Re: Teledyne

	January	February	March	April
Progress Payment	$53,244.00	$159,732.00	$159,72.00	$212,976.00
15%	$25,229.00	$ 25,229.00	$ 11,325.00	$ 57,626.00
P.O. Amendment	$ 2,562.00	$ 2,685.00	- 0 -	- 0 -
	$81,035.00	$260,208 00	$171,057.00	$270,602.00
Payment to TCM	$54,000.00	$162,000.00	$162,000.00	Nothing Sent $216,000.00 Budgeted

Check mailed to Sarah Waller May 1982

A 1136

PLAINTIFF'S EXHIBIT 51

AGREEMENT

Agreement 2011-72

Teledyne Industries, Inc

PLF'S EX. 20(a.d)
11/5/72 A.F.

A 1137

Plaintiff's Exhibit 51

WESTERN UNION TELEGRAM

CONMTRS WRBO

WU ISCS 06/28/72 180AA423216 05:23P EDT
ZCZC MA 001 PD WALTERBORO SC
PMS AMERICAN MARC
8831 SOUTH AVIATION BLVD INGLEWOOD CALIFORNIA

BT

ATTENTION M J LEONARD
REFERENCE PO M-1257 SUBCONTRACT FOR DAAK01-69-C-A359 1.5 KW
GENERATOR SET YOU HAVE NOT RESPONED TO OUR MANY TELEPHONE
REQUESTS UNTIL JUNE 27, 1972. YOU HAVE FAILED TO MAKE PAYMENT
OF $551,572.65 WITHIN THE REQUIRED 45 DAYS AFTER INVOICING.
ADDITIONAL $162,000.00 IS DUE UNDER SUBJECT PURCHASE ORDER.
THIS BREACH HAS FORCED TELEDYNE CONTINENTAL MOTORS TO DISCONTINUE
ANY FURTHER WORK UNTIL SUCH TIME AS PAYMENT IS MADE. US GOVERNMENT
IS BEING NOTIFIED OF THIS ACTION. HOMER F COLEMAN VICE PRESIDENT
AND GENERAL MANAGER TELEDYNE CONTINENTAL MOTORS WALTERBORO DIVISION
NNNN

WESTERN UNION TELEGRAM

ZCZC 002 PD WALTERBORO SC
PMS EON CORPORATION
175 PEARL STREET BROOKLYN NEW YORK
BT

ZCZC 003 PD WALTERBORO SC
PMS ACO COM-32 DCASR LOS ANGELES
11099 LACIENEGA BLVD LOS ANGELES CALIFORNIA
BT

WESTERN UNION TELEGRAM

ZCZC 004 PD WALTERBORO SC
PMS CHARLES UNSER PCO AMSME-PDC-C4
4300 GOODFELLOW BLVD ST LOUIS MISSOURI
BT
NNNN

ACCEPTED
00001
00002
00003
00004
AT

WESTERN UNION TELEGRAM

VO

PLF'S EX. 20-A (cont'd)
11/22/72 D.V.

A 1138

Plaintiff's Exhibit 51

Copies of his proposal and letter to FNCB
also sent on July 12 to Simon Walden
Simon Gryburk, Chief Tech. & and Harley Fran
NA

PLFT'S EX. 20-B (A.N)
11/22/72 A.B.

Total 49¢

No. 633775

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO E. KOTTS - TEEDYNE
STREET AND NO. 3500 VAN DYKE AVE
P.O. STATE AND ZIP CODE WARREN MICH 48090

POSTMARK OR DATE JUL 12 1972

POD Form 3800 July 1968

NO INSURANCE COVERAGE PROVIDED— NOT FOR INTERNATIONAL MAIL

Total 49¢

No. 633776

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO H. COLEMAN -
STREET AND NO. TEEDYNE -
P.O. STATE AND ZIP CODE RT-3 HSV - WALTER Dyke

POSTMARK OR DATE JUL 12 1972

NO INSURANCE COVERAGE PROVIDED— NOT FOR INTERNATIONAL MAIL

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S). REQUIRED FEE(S) PAID.

☐ Show to whom, date and address where delivered ☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 633776

INSURED NO.

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

TCM

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED 7-19-72

SHOW WHERE DELIVERED (only if requested)

Received the numbered article described below.

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

Eddy Cantrell

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Mik Mercer

DATE DELIVERED 7-19-72

SHOW WHERE DELIVERED (only if requested)

A 1139

Plaintiff's Exhibit 51

TELEGRAM

Mr. Homer Coleman, Vice President
Teledyne Continental Motors
Walterboro Division
Route 3, Box 40
Walterboro, South Carolina 29488

Your failure to deliver to the Government as per American Marc Purchase Order M-1257 will cause damages far beyond the value of our contract with you. Your deliberate and willful failure to deliver will result in our holding you liable for all consequential damages. Request you forthwith make all deliveries as per schedule as per contract.

EON CORPORATION

Nichôlas Anton,
President

Sent 11:52 - 5:10 P.M.
Confirmation + Notification of delivery.
(HH)

PLF'T'S Ex. 30-C (A.D)
11/30/82 A.R

A 1140

Plaintiff's Exhibit 51

AGREEMENT

This Agreement is made the 12th day of May, 1971, between EON Corporation, through its American Marc Division, 175 Pearl Street, Brooklyn, New York, (hereinafter called quote "EON"), and Teledyne Industrial Inc., a California corporation, through its Teledyne Continental Motors Division, 30500 Van Dyke Ave., Warren, Michigan, (herein called quote "Teledyne").

WITNESSETH:

Whereas, EON intends to sub-contract to Teledyne the supply of 4372 - 1.5 K. W. engine Generator sets, Federal stock number 6115-889-1446 to the U. S. Government under EON's Government contract number DAAK01-69-C-14359 dated June 20, 1969, said sub-contracting being arranged through EON Purchase Order M 1 2 5 7 dated May 12, 1971 and;

Whereas, EON will have on hand on August 31, 1971, certain parts and material for said Generator sets;

Now, therefore, in consideration of the premises and the promises herein contained, the parties agree as follows:

1. EON agrees to sell and Teledyne agrees to purchase all of the 1.5 K. W. engine Generator set parts and material which are in reasonably good condition and not defective in any material respect which EON will have on hand on August 31, 1971. Teledyne's judgment, reasonably exercised as to the condition of said parts shall prevail.

2. EON agrees to have such parts and material, packed ready for prompt shipment no later than the close of business August 31, 1971. EON shall promptly ship such parts and material

PLT'S EX. 20-D (A.D.)
11/22/72 D.P.

to the destination indicated by Teledyne. Teledyne shall pay the shipping charges.

3. Teledyne shall pay EON a price for said parts and material equal to seventy-five (75%) percent of the inventory value. Inventory value is defined as EON cost as supported by their purchase orders which shall be attached hereto as Exhibit "B" on or before the day payment is due. Payment shall be made by Teledyne 30 days net after receipt of material to designated location.

4. EON shall promptly ship to Teledyne all government furnished equipment pertinent to the aforesaid Government Contract. Teledyne shall pay the shipping charges to the designated location.

5. EON agrees to sell and Teledyne agrees to purchase all the tooling, guages and equipment owned by EON which is in reasonably good and useful condition, ordinary wear and tear excepted, which is needed to perform the aforesaid Government Contract and which is listed in Attachment "A". The price is $25,000 which will be payable 30 days net after shipment to designated and/or assignment at Vendor (supplier) locations. Teledyne's judgment, reasonable exercised, as to the condition of said tooling, guages and equipment shall prevail.

6. EON agrees to provide to Teledyne copies of material purchase orders, tool drawings, test specifications, parts drawing and any other pertinent data developed as part of the execution of subject U. S. Government Contract.

7. Notwithstanding any other provision herein, this Agreement shall be effective only upon issuance of a valid purchase order from EON to Teledyne, acceptable to Teledyne and the U. S. Government, for at least 4372 - 1.5 K. W. engine generator sets as agreed upon terms and conditions including price.

8. This contract is entered into in accordance with the law of the State of California and such law shall govern this contract.

EON CORPORATION
American Marc Division

By _____

Its V. Pres
Nicholas Pres.

TELEDYNE INDUSTRIES INC.
Teledyne Continental Motor Division

By _____

Its Vice President

A 1143

Plaintiff's Exhibit 51

ONLY COPY AVAILABLE

1.5 K.W. TRANSMITTER

IN INSTRUMENT

TRANSMITTER CO. NO. 1

TOOLING AT VENDOR'S						
132MF6101-3		GUSSET				9500
1321EF6258		MTG. BRACKET-R.H.				14750
1321MF6102		" " L.H.				14750
1321MF6101-8		GUSSET				9500
1321MF6103		MTG. BRACKET				14750
1321MF6101-11		GUSSET				13500
1321MF6256		BOTTOM BRACKET				10000
1321JF6385		TOP "				11250
1321MF6116		BRACE				11000
1321JE0117-1		CASE				40000
-2		TOP PLATE				40000
1321JF6396		CONTROL BOX & SUPPORT				29000
1321MF6270-1		VOLT. REGULATOR CASE				12500
1321MF6281		VOL. TRANSFORMER CASE				17500
1321MF6283		STRAP				1225
1321MF6282		"				2225
1321MF6120		WASHER				880
1321MF6119		"				630
1321MF6107		BRACE				525
1321MF6105		LOCK PLATE				3800
1321MF6104		MTG. RAIL				3700
1321MF6255-2		FRAME				1200
1321MF6104		MTG. RAIL				5900
1321MF6101		FRAME				7000
						279716
MISCELLANEOUS TESTS						4130
SMALL TOOLS, TEST EQUIP., MISCELLANEOUS						
AMORTIZED COST CONTRACT						1896
DIRECT LABOR						
						17700
						30116
						11
						35933
						177139

DON'T

EXHIBIT A

A 1144

Plaintiff's Exhibit 51

PREPARED BY

APPROVED BY

FREQUENCY [illegible]

LINE NO				
1		MILL & DRILL FIXTURE - MTG. FRAME		1963
2		PUSH OUT FIXTURE - PRESS NUTS IN STATOR		170
3		WESTON FREQUENCY METER		385
4		" AMMETER		150
5		" KILOWATT METER		165
6		" VOLTMETER		165
7		" AMMETER		150
8		" KILOWATT METER		165
9		" VOLTMETER		150
10		DC POLYRANGER		185
11		" "		155
12		VOLTAGE & FREQUENCY MONITOR		1360
13		" " "		2148
14		" " "		2148
15		WHEATSTONE BRIDGE		125
16		WESTON VOLTMETER		135
17		EPUT METER		185
18		TEMPERATURE RECORDER		75
19		WAVE ANALYZER		350
20		WHEATSTONE BRIDGE		125
21		PYROTEST		400
22		AMMETER		150
23		KILOWATT METER		165
24		" "		150
25		KELTI-RITER		2722
26		STROBOTAC		125
27		STROBOLUX		125
28	3	CURRENT TRANSFORMERS		105
29		FREQUENCY RECORDER		150
30	3	LOAD TEST STANDS		1050
31	7	MOUNTING FIXTURES		5470
32	3	LOAD TEST STANDS		1500
33	2	PORTABLE LOAD STANDS		700
34				
35				23286

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EXHIBIT A

A 1145

Plaintiff's Exhibit 51

DAAK01-69-B-7962
Page 22 of 28

ADDITIONAL SOLICITATION INSTRUCTIONS & CONDITIONS
(Continued from reverse of SF 33A)

41. PRICE ESCALATION (MULTI-YEAR).

a. The contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs of performance resulting from increases in rates of pay for labor or prices for material used by the contractor or his subcontractors in performance of the contract work.

b. At such times as, pursuant to the clause entitled "Limitation of Price and Contractor Obligations", notification is given the contractor as to the availability of funds for items 0014 & 0015, the unit prices for said items shall be the prices therefor as shown in the schedule hereof, subject to adjustment upward or downward on the following terms and conditions:

(1) The stated wholesale price index for code no. 1173 0223.02, Generator Set, gasoline engine 1.5 - 1.8 KW, as published in the monthly issued of the U. S. Department of Labor Publication entitled "Wholesale Prices and Price Indexes" containing the index for the month in which this contract is awarded, shall be the base for the purpose of price adjustment under this clause.

(2) The unit prices to be applicable to said items 0014 & 0015 shall be the contract unit prices set forth in the Schedule increased or decreased to reflect the percentage difference between the base index price referred to above and the index price for 1.5 - 1.8 KW Generator Sets published by the Department of Labor as in effect as of the end of the scheduled delivery of the preceding production increment.

(3) The net aggregate upward adjustment under this provision shall not exceed 4%, i.e. the revised item unit prices which may result from the application of this Price Escalation provision shall, in no event, be more than 4% higher than the original unit price for said items as set forth in the schedule hereof.

PLTF'S EX. 20 E (cont'd)
11/30/77 NP

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A 1146

Plaintiff's Exhibit 5

AMERICAN MARC DIVISION

6331 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO. M1257

DATE 5/11/71

TO
Teledyne Continental Motors
A Division of Teledyne Industries, Inc.
76 North Getty Street
Muskegon, Michigan 49443

SHIP TO

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO YES ☐ NO ☒ SD AB 12-612982	ACCT NO	W. O NO.	REQ. NO.	DELIVER TO
	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒	OPERATION NUMBERS	TOOLS FURNISHED BY AM ☐ VENDOR ☒	REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
001	4372	ea.		FSN 6115-889-1446 Generator Set, Gasoline Engine Driven, 1.5 KW, Alternating Current, Air Cooled, Portable, Tubular Frame, [illegible]ock Mounted, Type I - Model SF-1.5-MD, 1.5 KW, 1.0 power factor (PF) at 60 Hz, single phase, 2 wire, 120/240 volts. In accordance with Military Specification MIL-G-52282B dated 23 May 1968 with modifications as specified herein and DL13214E0100, Revision "M" dated 15 March 1969. (F.O.B. Origin) (Level A/A) The above quantity of 4372 are made up of the balance, if any, of Item 0001 and all of Item 0019 and 0014. Under the P.O. engines to be furnished by the Government as GFE. G.S.I. is required at manufacturers facility.	$360.00		

DELIVERY SCHEDULE – QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM									
DATE	Delivery schedule in accordance with Contract DAAK01-69-C-A359, including all contract								
QUAN	modifications.								

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	QUAN DEVIATION	ORDER VALUE
DAAK01-69-C-A359 Cat. Class P	☒	☐	☐ DESTINATION SOURCE ☒	+ –	$1,573,920

PRICE. SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE. SHOWING PURCHASE ORDER NUMBER LIST ALL MATERIAL BY ITEM NUMBER INVOICE SEPARATE FOR EACH ORDER.

PLFT'S EX. 20-F (cont'd)
11/22/72 DP.

J. L.

AMERICAN MARC DIVISION
EON CORPORATION

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A 1147

Plaintiff's Exhibit 51

LITHOGRAPHED BY SOUTHWEST BUSINESS FORMS

AMERICAN MARC DIVISION
8831 South Aviation Boulevard
Inglewood, California 90301
EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO.

DATE

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS

CONFIRMING	F.O.B.	SHIP VIA	TERMS
RESALE PERMIT NO SR AB 12-612582	Walterboro, S.C.	Std. Surface	Net 30 Days
	ACCT NO: 1390 / W.O. NO: J-0577	REQ. NO.	DELIVER TO according to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS ☐ TOOLS FURNISHED BY AM ☐ VENDOR ☒ REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				All items on this order are subject to MIL-I-45208A Inspection Requirements. "Supplementary Quality Assurance Provisions" (SQAP #13204E1700 is also applicable.) All vendor's terms and conditions of Contract DAAK01-69-C-A359 and Modifications P001 thru' P0021 apply to TCM as they apply to American MARC, with the exception of Paragraph 41, Page 22. This paragraph is not applicable to TCM. Any procurement options available to the government under the contract will be extended to TCM at the above price or price subject to increases or decreases by contract modification to the basic contract by the government which,			

DELIVERY SCHEDULE – QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM								
DATE								
QUAN								

CONTRACT NO. & PRIORITY	CERTIFICATION REQUIRED	MILL TEST REPORT REQUIRED	INSPECTION	DISTRIBUTION	SOURCE ☒	QUAN DEVIATION + −	ORDER VALUE
DAAK01-69-C-A359 Class B	☐						

PRICE SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

ONLY COPY AVAILABLE

A 1148

Plaintiff's Exhibit 51

LITHOGRAPHED BY SOUTHWEST BUSINESS FORMS

AMERICAN MARC DIVISION

131 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2790

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO.

DATE

Teledyne Continental Motors

SHIP TO

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS

FIRMING	F.O.B	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO	ACCT NO	W O NO	REQ. NO	DELIVER TO
SR AB 12-612552	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED	OPERATION NUMBERS	TOOLS FURNISHED	REQ BY
AM ☐ VENDOR ☒		BY AM ☐ VENDOR ☒	

QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
			if they effect TCM, cost or delivery, will be jointly negotiated. EON also extends to TCM requirements added to contract by Mod P00010, Paragraph 3, 3a as it applies to Contract CLIN 0001, 0014, 0014AA, 0014AB, and 0019. This cost is included in the above unit price. However, when TCM is required to do work under CLIN 17 and 18, for adjustment, cleaning, repairs and parts replacement to GFE engines as more fully described in paragraph 4 hereof - as follows: 4. For adjustments, cleaning, repairs and replacement of repair parts pursuant to paragraphs (c), (d) & (Second sentence only), and (e) of the above clause the contractor shall be paid at an hourly rate for each hour worked.			

DELIVERY SCHEDULE – QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

CONTRACT NO & PRIORITY	CERTIFICATION REQ'D/REC'D	TEST REQ'D/REC'D	INSPECTION	SOURCE	QUANTITY VARIATION +	−	ORDER VALUE
DAAK01-69-C-A359	☐			☐			

PRICE SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE. SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

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A 1149

Plaintiff's Exhibit 51

U-1

AMERICAN MARC DIVISION
8831 South Aviation Boulevard
Inglewood California 90301
EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER
THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE

NO.

DATE

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Watertorc, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO	ACCT NO	W O NO	REQ. NO.	DELIVER TO
69 AB 12-612952	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☒ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☒

REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				The contractor shall not exceed three (3) manhours per engine without prior approval of the Government representative. The maximum total amount authorized for payment for this work SHALL NOT EXCEED $105,000.00. The contractor shall maintain an accurate daily record of actual manhours worked by engine serial number, description of work performed, name of certified mechanic. Such record shall be maintained at the engine repair work station, shall be accessible to the government representative on site and shall be available for audit by the government upon request. For packaging and marking defective GFE engines, parts and accessories as more fully described in paragraph 5 hereof - as follows:			

DELIVERY SCHEDULE - GUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM						
DATE						
QUAN						

CONTRACT NO & AUTHORITY	CERTIFICATION REQUIRED	TEST REQUIRED	SHIPPING INSTRUCTIONS DESTINATION	SOURCE	QUAN DEVIATION +	QUAN DEVIATION −	ORDER VALUE
DAAK01-69-C-A359	☐			☐			

PRICE SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

A 1150

Plaintiff's Exhibit 51

LITHOGRAPHED BY SOUTHWEST BUSINESS FORMS

AMERICAN MARC DIVISION
EON CORPORATION
8831 South Aviation Boulevard
Inglewood, California 90301
Area Code 213 776-2700

PURCHASE ORDER
THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO.

DATE

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS

CONFIRMING	F.O.B.	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

RESALE PERMIT NO SR AB 12-612552	ACCT NO	W O NO	REQ. NO.	DELIVER TO
	1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☒ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VEN OR ☒

REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
			5.	For marking and packaging of defective government furnished engines, parts and accessories pursuant to paragraphs (i),(j) and (k) of the above clause the contractor shall be paid at an hourly rate for each hour worked. The contractor shall be allowed one-half hour per engine for marking and packaging. The contractor shall not be paid for any time in excess of one-half hour per engine nor shall the government deduct any time less than one-half hour per engine. The contractor shall be paid the actual packaging time for marking and packaging defective government furnished parts and accessories. The maximum total amount authorized for payment for this work SHALL NOT EXCEED $5,000.00. This amount shall be payable for packaging NOT MORE THAN 596 engines, (596 engines X 1/2 hour per engine) and a total of			

DELIVERY SCHEDULE - QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM							
DATE							
QUAN							

CONTRACT NO & PRIORITY	CERTIFICATION REQUIRED ☐	MATERIAL TESTS REQUIRED	INSPECTION DESTINATION	SOURCE ☐	QUAN DEVIATION + − %	ORDER VALUE
DAAK01-69-C-A359						

PRICE SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE. THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF. RENDER INVOICES IN TRIPLICATE. SHOWING PURCHASE ORDER NUMBER. LIST ALL MATERIAL BY ITEM NUMBER. INVOICE SEPARATE FOR EACH ORDER.

AMERICAN MARC DIVISION
EON CORPORATION

A 1151

Plaintiff's Exhibit 51

LITHOGRAPHED BY SOUTHWEST BUSINESS FORMS

AMERICAN MARC DIVISION

4831 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2700

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO.

DATE

Teledyne Continental Motors

SHIP TO

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS

	F.O.B.	SHIP VIA	TERMS
	Walterbor, S.C.	Std. Surface	Net 30 Days
RESALE PERMIT NO SP AS 12-812552	ACCT NO 1390 / W O NO. J-0577	REQ. NO.	DELIVER TO According to Contract DAAK01-69-C-A359

TERIAL FURNISHED AM ☐ VENDOR ☒ OPERATION NUMBERS | TOOLS FURNISHED BY AM ☐ VENDOR ☒ | REQ BY

QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
			given manhours for packaging parts and accessories (5 hrs.), as in paragraph 3b above, the contractor shall maintain a daily record of the number of engines packaged and the time expended for packaging parts and accessories. Payment for the above work, as required, will be invoiced per paragraph 7 and 8 of this MOD 0010. The above work will be billable to American MARC at the rate of $9.00 an hour from TCM. As a result of this additional work, the maximum funds available to TCM are $110,000, based on limitations set forth in paragraph 4 and 5 of this Mod P00010.			

DELIVERY SCHEDULE – QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

TRACT NO & PRIORITY		CERTIFICATION REQUIRED		INSPECTION DESTINATION ☐ SOURCE ☐	QUAN DEVIATION + −	ORDER VALUE
DAAK01-69-C-A359		☐		☐		

PRICE SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF RENDER INVOICES IN TRIPLICATE. SHOWING PURCHASE ORDER NUMBER LIST ALL MATERIAL BY ITEM NUMBER INVOICE SEPARATE FOR EACH ORDER

AMERICAN MARC DIVISION
EON CORPORATION

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A 1152

Plaintiff's Exhibit 51

DO

AMERICAN MARC DIVISION

8831 South Aviation Boulevard
Inglewood, California 90301

EON CORPORATION
Area Code 213 776-2700

DATE

PURCHASE ORDER

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING SLIPS, INVOICES AND CORRESPONDENCE.

NO.

TO: Teledyne Continental Motors

SHIP TO:

PROOF OF DELIVERY REQUIRED ON ALL DROP SHIPMENTS TO AMERICAN MARC SUPPLIERS.

CONF SWING	F O B	SHIP VIA	TERMS
	Walterboro, S.C.	Std. Surface	Net 30 Days

NO YES X	RESALE PERMIT NO SR AB 12-612552	ACCT NO	W O NO.	REQ. NO.	DELIVER TO
		1390	J-0577		According to Contract DAAK01-69-C-A359

MATERIAL FURNISHED BY AM ☐ VENDOR ☐ OPERATION NUMBERS

TOOLS FURNISHED BY AM ☐ VENDOR ☐

REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				Article 2 "Warranty" on the P.O. is deleted and the following is substitued. (See attachment) Article 4, Article 7 and Article 11 are hereby deleted without substitution. The termination terms and conditions of the Contract DAAK01-69-C-A359 apply in lieu of Article 11. CLIN 15 and 16 documentation will be delivered to the government by American MARC.			

DELIVERY SCHEDULE — QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM								
DATE								
QUAN								

CONTRACT NO & PO ORDER	CERTIFICATION REQUIRED ☐	MILL TEST REPORT REQUIRED	INSPECTION & DESTINATION	SOURCE ☐	QUAN DEVIATION + −	ORDER VALUE

PRINT SIGN AND RETURN ACKNOWLEDGMENT COPIES AT ONCE WITH DELIVERY DATE THIS ORDER IS SUBJECT TO TERMS AND CONDITIONS SHOWN ON REVERSE SIDE HEREOF RENDER INVOICES IN TRIPLICATE. SHOWING PURCHASE ORDER NUMBER LIST ALL MATERIAL BY ITEM NUMBER INVOICE SEPARATE FOR EACH ORDER

AMERICAN MARC DIVISION
EON CORPORATION

A 1153

Plaintiff's Exhibit 51

Attachment "Vendor terms and Condition" are duly part of this purchase order.

Article No. 2 "Warranty" is deleted and the following substituted in lieu there of: "A". EON hereby acknowledges the U.S. Government as its agent to inspect and accept all supplies under this purchase order. The U.S. Government will supply inspection for said supplies at TCM designated facility.

"B". Acceptance or rejection of the supplies by the U.S. Government should be made as promptly as practical after presentation of the supplies for acceptance period. In the event supplies are not rejected within 30 days after presentation, they will be deemed to have been accepted.

"C". In case any supplies are defective in material and workmanship, the U.S. Government will have the right either to reject them or require their correction. Acceptance by the U.S. Government should be conclusive accept as provided in ASPR 7-103.5(a). TCM sale responsibility for obligation for defects shall be to repair or to replace such defective material or parts which have been returned to it and shall be deemed by TCM to be attributable to faulty workmanship or material. Said responsibility or obligation for defects is granted in LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE, OR STATUTORY and all other obligations for liabilities including special or consequential damages or contingent liabilities, and no person is authorized to give any warranty or to assume any additional responsibility or obligation on TCM behalf, unless made in writing and properly authorized by an officer of TCM.

Articles 4, 7, and 11 - Terms and Condition of Termination as per our Contract are hereby deleted without substitutions.

A 1154

Plaintiff's Exhibit 51

AMERICAN MARC

[illegible] PHONE XXXXX
776-2700

ONLY COPY AVAILABLE

May 25, 1[illegible]

Bank of America
Golden Cove - Palos Verdes Branch
31176 Hawthorne Boulevard
Palos Verdes Peninsula, California 90274

Attention: Mrs. Fern Guy

Dear Mrs. Guy:

American Marc Division of ECN Corporation has issued P.O. No. M-1257 to Teledyne Continental Motors, 1000 Ryan Avenue, Walterboro, South Carolina to produce approximately 4000 generator sets.

Accordingly we have agreed to have all funds received by American Marc from the sale of these generator sets to the U. S. Government held in our special account which we have opened at the Bank of America for this purpose.

Teledyne Continental Motors' invoices will be sent to American Marc for generator sets as they are produced and shipped by TCM. American Marc will immediately invoice the U. S. Government for the units shipped.

American Marc will notify the Bank of America and TCM the exact invoices and amounts that have been included in the American Marc request for payment from the U. S. Government.

When the funds are received, the check will be deposited in the special account and the Bank will be directed to use the funds to pay the amounts of the invoices, which were included in the payment check, directly to TCM by cashiers check. The balance in the account will be disposed according to the direction of American Marc Division of ECN Corporation.

PLFT'S EX. 20-G (C.D)
11/22/82 D.P.

A 1155

Plaintiff's Exhibit 51

AMERICAN MARC

DIVISION TCN CORPORATION

5881 SOUTH AVIATION [illegible] INGLEWOOD, CALIFORNIA 90301

AREA CODE 213 PHONE XXXXXX

776-2700

September 14, 1971

Mr. Homer Coleman
Teledyne Continental Motors
1000 Ryan Avenue
Walterboro, South Carolina 29488

Dear Sirs:

At the request of all parties concerned Mr. Anderson and the writer met on September 1, 1971, in New York and went over in detail the P.O. No. M-1257.

At this meeting we also reviewed the proposed amendment to the P. O. described in a letter dated July 8, 1971, signed by Mr. M. W. Saunders.

American Marc can appreciate that, due to the size of TCM, that the interpretation of our P. O. into a "Sales Order" which can be released to the other departments and to the production department must include in detail all of the information contained in the P. O., Contract and Agreement. American Marc however, has to limit the number of pieces of paper that describe the relationship between American Marc and Teledyne and did not feel that it was necessary to create the third document as proposed by Mr. Saunders. We therefore, proceeded to go through the P. O. and the Saunders' proposal and believe that by mutual agreement with Mr. Anderson and the writer that we have incorporated all of the necessary data into the P. O. by Purchase Order Amendments which are attached.

In the meeting Mr. Anderson and the writer went through the P.O. and the proposed Saunders' Amendment and made the following notes which resulted in action as described herein:

PLT'S EX. 20-11(a-d)
11/22/82 A.P.

A 1156

Plaintiff's Exhibit 51

Note No. - 1 - The P. O. should be changed to show the correct number of units to be delivered. A typographical error in the proposal of Mr. Saunders on page two indicated a quantity of 4315. The P. O. Amendment M-1257-2 has been issued to clarify the quantity of units to be delivered. By way of explanation the additional two units shown as serial numbers 500006 and 500007 are the preproduction models manufactured by American Marc and these units have been shipped to Walterboro and those, along with the two TCM manufactured preproduction units which are at the General Testing Laboratories, will be returned to Walterboro and, according to the contract, will be shipped at the end of the contract. American Marc, therefore, will pay Teledyne for 4355 units.

Under Note No. 3 of the notes of our meeting, we were asked to clarify the line item numbers and to also, under Note No. 7, we were asked to clarify the delivery schedule. You will note on page two of Modification M-1257-2 that this information has been incorporated into the Purchase Order.

Note No. 8 in our meeting has been incorporated in the Purchase Order by change M-1257-3.

Under Note No. 6 of the minutes of the meeting this has been clarified in the P.O. by Amendment M-1257-4.

Under Note No. 2 of the minutes of the meeting we are covering this change by issuing a Modification to the P. O. M-1257-5. This change I believe you will find, is in accordance with exhibit "A" of the Saunders letter dated July 8.

Under Note No. 9, the P. O. has been amended to clarify the preservation requirements as detailed in the contract. This P.O. change M-1257-6 is designed to follow the article No. III, page four of the Saunders letter.

Under Note No. 11, which refers to article IV of the Saunders' letter, we believe that the Teledyne Continental rights to the extensions of options are clearly defined in the last paragraph on page two of the initial P.O. We do not believe that any further documentation is necessary. However, if Teledyne feels stronger on this point, we will issue an amendment to the P.O. in accordance with article four, page five of the Saunders' letter.

A 1157

Plaintiff's Exhibit 51

Item No. 14 is covered by P. O. change M-1257-7.

Item No. 17 is covered by P. O. change M-1257-8.

This P. O. Modification M-1257-8 covers the information contained in Modification P00024, to the American Marc prime contract is the latest Modification received as of this date.

In order that any changes in the contract be immediately transmitted to Teledyne by P. O. change, we have set up a system whereby the writer will immediately, upon receipt of a P. O. change to the American Marc contract, send this information to Mr. Anderson and to Mr. Coleman so that the effect of a Modification to the American Marc Contract can be immediately interpreted by TCM and a Purchase Order change issued or requested.

Sincerely yours,

M. J. Leonard
Vice President-General Manager

MJL:ir

Enclosures

cc: Messrs. Harold Rouse
W. A. Anderson
M. W. Saunders

A 1158

Plaintiff's Exhibit 51

AMERICAN MARC

October 11, 1971

Mr. Homer Coleman
Teledyne Continental Motors
1000 Ryan Avenue
Walterboro, South Carolina 29488

Dear Homer:

SUBJECT: Method of payment to TCM on P.O. M-1257

In the Agreements and Purchase Order signed and dated 5-12-71 and in the letter of 5-13-71 signed by Mr. Rouse and replied to by Mr. Leonard 5-25-71 the method of payment agreed upon was resolved.

On 10-9-71, five months later TCM appears to be confused or is at this late date trying to make a different deal with American Marc.

For the record you and Harold will remember, we pointed out from our first meetings that American Marc had no money from which to pay TCM except when it received money from the Government as progress payments, after the shipment or sale of generators had been made, the invoice included in the request for progress payment and the government sending us a progress payment check for that specific billing.

In accordance with the above understanding, TCM asked in the May 13, 1971 letter to arrange with the Bank of America "to hold funds received from 1.5 KW generator sales, covered on ECN P.O. No. M-1257 in a special account, which will be used to pay TCM invoices." On May 25, 1971, the writer sent you a copy of the arrangment set up at the Bank of America as requested. On 10-8-71 your "Financial Man from Muskegon" called and asked you to get that arrangement with the Bank of America into the P.O. On that date I called Mr. Walck at American Marc and P.O. 1257-9 was issued to cover this request. (Copy attached)

PLFT's EX 20-i (cont'd)
11/22/72 A.P.

A 1159

Plaintiff's Exhibit 51

On 10-9-71, Mr. Anderson handed me a letter dated 10-?-71 in which Paragraph 8 asked for written confirmation of his verbal agreement regarding invoicing procedures which we had discussed in our meeting in New York City, 9-1-71. Again for the record I told Mr. Anderson when he asked for "Progress Payments" for TCM in New York the same story as related to Messrs. Rouse and Coleman, "We can only pay you after we have been paid." He, I thought, understood this thoroughly since he then went into a song and dance about invoicing American Marc when the units were bought off in test as a lot and before final buy off, packaging and shipment.

In our meeting of 10-9-71, attended by you and Dick Campbell, I again agreed to the method of invoicing American Marc at the time of the lot test being accepted by the government QAR and stamped off. I did, however, again point out that this would get the invoice from TCM into the system earlier and would probably shorten the payment period by a few weeks.

However, again for the record I explained to all present that the sale, invoice, request for progress payment, payment by Government of Progress Payment, and then "skimming" of the money due TCM from that payment to TCM by the Bank of America, procedure would be followed by American Marc. Therefore, under Paragraph 8 (a) of the Anderson letter as I agreed to do at the meeting and signed the letter accordingly; we have changed the P.O. to reflect the Bank of America and payment arrangement by P.O. Change No. M 1257-9 dated 10-11-71. (Copy attached) I hope this letter clarifies the arrangement as far as invoicing is concerned.

Under Paragraph 8 (b), I have checked this request which incidentally was not discussed in New York and is a new subject, with Mr. Walck our Controller and he and I recommend that TCM on Item 0017 and 0018 invoice on a regular basis as Dick Campbell suggested (TCM accounting periods). American Marc will forward only upon receipt of invoice include the face amount in the next progress payment request. We will advise TCM and the Bank of America of the amount and the invoice No. and the Progress Payment No. with advice to pay direct by cashier's check upon receipt of respective progress payment check from the Government. We will issue a P.O. change to include this if you want it in addition to this letter of clarification.

A 1160

Plaintiff's Exhibit 51

ONLY COPY AVAILABLE

Paragraph 8 (c) in accordance with all previous disclosure agreements, and the facts of life is out of order in relation to this P.O. and contract except as implied in the original P.O. [illegible] M 125 where the Terms: block on the upper right hand corner indicates the normal business payment statement "Net 30 days."

As I pointed out to your Mr. Anderson, "an honest contract with an honest man or company" is worth 1000 unreasonable contracts with a disreputable concern.

We will pay you as we agreed and you have the largest bank in California acting as a monitor in your behalf, any other agreement or veiled threats are meaningless.

Sincerely,

M. J. Leonard
Vice President-General Manager

MJL:ir

Enclosures

cc: Mr. Harold Rouse

A 1161

ONLY COPY AVAILABLE

Plaintiff's Exhibit 51

[redacted] South Aviation Boulevard
Inglewood, California 90301

[redacted] CORPORATION
Area Code 213 776-2700

Page 1 of 2

October 11, 1971

NO. [redacted]

TO

[redacted] Continental Motors
A Division of [redacted] Industries, Inc.
[redacted] North Cotty Street
[redacted], Michigan [redacted]

SHIP TO

CONFIRMING

F O B
Walterboro, S.C.

SHIP VIA
Best Surface

TERMS
Net 30 Days

NO YES

RESALE PERMIT NO
SR AB 12 612852

ACCT NO
1390

W O NO
8-0577

REQ NO

DELIVER TO
Contract [redacted]

MATERIAL FURNISHED
BY AM ☐ VENDOR ☒

OPERATION NUMBERS

TOOLS FURN SHEL
BY AM ☐ VENDOR ☒

REQ BY

ITEM	QUANTITY	UNIT	PART/CODE NUMBER	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL
				- Change Notice -			
				This contract to purchase order D-1297 is issued to incorporate the method of payment as stipulated in letter of May 25, 1971, from U.S. Account to Bank of America, Union Bank Branch, [redacted] Blvd., Palm Desert Redevelopment Agency, Calif. 92260.			
				1. All funds received by [redacted] Motors Inc. from the sale of [redacted] units, manufactured by [redacted] Continental Motors, to the U.S. Government will be deposited to the special account at Bank of America which has been opened for this purpose.			

DELIVERY SCHEDULE – QUANTITIES LISTED UNDER EACH ITEM REPRESENT QUANTITY TO BE SHIPPED ON DATES INDICATED

ITEM									
DATE									
QUAN									

CONTRACT NO & PRIORITY	☐ CERTIFICATION REQUIRED	☐ MILL TEST REPORT REQUIRED	INSPECTION ☐ DESTINATION SOURCE ☐	QUAN DEVIATION + −	ORDER VALUE

VENDOR ORDER NO		VENDORS PERFORMANCE RATINGS	
ACKNOWLEDGED		DELIVERY RELIABILITY	
PROMISE DATE		QC RELIABILITY	
F U PROMISE		LAST QUANTITY BOUGHT	LAST UNIT PRICE
F U PROMISE		CORRECTING ACTION	
F U PROMISE		F U PRINT RETURN	

PLFT'S Bx. 20-A (cont'd)
11/30/72 A.P.

ACCOUNTING

A 1162

Plaintiff's Exhibit 51

831 South Aviation Boulevard
Inglewood, California 90301

NO. 13-1297-9

TO

Teledyne Continental Motors
A Division of Teledyne Industries, Inc.
76 North Getty Street
Muskegon, Michigan 49443

ONLY COPY AVAILABLE

ITEM	QUANTITY	UNIT	PART NO. AND DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL

2. Teledyne Continental Motor's invoices will be sent to American MARC for generator sets shipped by TCM. American MARC will immediately invoice the U.S. Government for the units shipped.

3. American MARC will notify the Bank of America and TCM of the exact invoices and amounts that have been included in the American MARC request for payment from the U.S. Government.

4. When the funds are received, the check will be deposited in the special account and the Bank of Americacwill be directed to pay the amount of the invoices, which were included in the payment check, directly to TCM by Cashier's Check.

DELIVERY SCHEDULE

CONTRACT NO. & PRIORITY
DAAK01-69-C-1359
Coy, Class B

PERFORMANCE RATINGS

LAST UNIT PRICE

A 1163
Plaintiff's Exhibit 51

CONTINENTAL MOTORS
ROUTE NO 3
BOX 40
WALTERBORO, SOUTH CAROLINA 29488
CABLE CONTENT

October 9, 1971

American Marc Division
Eon Corporation
8831 South Aviation Boulevard
Inglewood, California 90301

ONLY COPY AVAILABLE

Attn: Mr. M. J. Leonard

Gentlemen:

Subject: Your Purchase Order Number M-1257
For 4351 Each 1.5 KW Generator Sets

As a result of our meeting in New York City on September 1, 1971, verbal agreement was reached on the majority of points set forth in M. Saunders letter dated July 8, 1971. As you will recall, that letter contained all of the items which we requested be added to the original Purchase Order number 1257. Such supplementation was, in our opinion, necessary to effect a complete legal understanding and agreement between American Marc and TCM. Subsequently, eight revisions to the Purchase Order were issued in lieu of incorporating the agreement attached to M. Saunders' letter. Unfortunately, in this transition to purchase order revisions several previously agreed upon points were either overlooked or re-evaluated by American Marc and considered unnecessary. Our top management has given this matter their full attention and it is the consensus that the following items must be incorporated into the purchase order to effect a complete and equitable agreement between American Marc and TCM:

1. In modifying the terms and conditions shown on the reverse side of your purchase order, five deletions are required, i.e.
   (g) Termination including sub-paragraphs (1), (2), (3) and (4).
   (j) Sub-contracting
   (k) Domestic Articles
   (m) Notice to Government of Labor Disputes
   (o) Limitation of Profit

2. In reference to M. Saunders' letter, Article IV, Pg. 5 - "Option For Increased Quantity" must be incorporated including paragraphs: A - Option Amount, B - Time Period, C - Right to Exercise Option In Increments, D - Option Guarantee and E - Definitions

PLFT'S EX. 20-J (cont'd)
11/22/72 A.P.

A 1164

Plaintiff's Exhibit 51

American Marc will not accept

~~Also on page 5 of the referenced letter Article V relative to Specifications must be incorporated including the accompanying detail on Exhibit "C".~~

4. Page 7 of the referenced letter Article VII, Buyer Furnished Property, must be incorporated along with related Exhibit "D".

5. Page 7 of the referenced letter Article VIII, Preparation and Distribution of DD Form 250 (MIKR) and Article IX, Instructions For Application, Preprocessing, Maintenance and Disposition of Buyer Furnished Engines (including Exhibit "E") must be incorporated.

~~Page 8 of the referenced letter, Article XII, DA Form 2408-8 must be incorporated.~~

7. On Purchase Order Revision 1237-5 the changes made to DL 13214E0100, Rev. M dated 15 Mar 1969, are incomplete in that they are silent as to detail drawings 13214E0202 and 13214E0203 (See Exhibit "A" for detail).

American Marc will accept.

8. Written confirmation of our verbal agreement must be made regarding payment terms, i.e.
   (a) Upon Government approval off from acceptance test, Generator Sets in lots of 150 each will be invoiced directly to American Marc, Inglewood, California, for payment at $360.00 per unit. Payment in full is required within 30 days from date of invoice and should be forwarded to Teledyne Continental Motors, A Division of Teledyne Industries, Inc., P. O. Box 3960, Atlanta, Georgia 30302.
   (b) For item 0017, Adjustment, Cleaning, Repairs and Parts Replacement to Government Furnished Engines and 0018, Packaging and Marking of Defective Government Furnished Engines, charges will be accumulated and invoices will be rendered on a regular basis. Payment in full will be required within 30 days from date of invoice and must be forwarded to the same Atlanta payment address as noted in the preceding paragraph.
   (c) These payment terms are firm and deferred action in excess of 30 days could result in suspension of further shipments until payment is received.

In closing, since initial shipment is imminent, we trust you will give this matter your prompt attention and approval.

Sincerely,

TELEDYNE CONTINENTAL MOTORS
A Division of Teledyne Industries, Inc.

W. A. Anderson
Contract Administration Chief

WAA/lh

W. A. Anderson
Am. Marc agrees to make the above changes to P.O. # A1-1257 as clarified by letter dated 10/9/71 which is satisfactory. Hillsen and

Helen 10/9/71
Campbell 10/9/71

A 1165

Plaintiff's Exhibit 51

Not acceptable
See Cin Muse letter
Sept 14, 1971 to
Teledyne -

TELEDYNE
CONTINENTAL MOTORS
76 NORTH GETTY STREET
MUSKEGON, MICHIGAN 49442
(616) 724 2151 CABLE CONTENT

July 8, 1971

American Marc Division
EON Corporation
8831 South Aviation Boulevard
Inglewood, California 90301

Attention: Mr. J. Leonard

Gentlemen:

Subject: Purchase Order Number M-1257

Enclosed herewith for your signature is a signed Agreement to be considered Amendment Number 2 of the subject purchase order. The reason this Agreement is presented is that we feel that the purchase order should stand on its own inasmuch as we are contracting with American Marc and not the U. S. Government.

In preparing this Agreement we attempted to define all of Teledyne Continental Motors' responsibilities as agreed to between yourself and our Messrs. H. Rouse and H. Coleman. If in the preparation of this Agreement we have, in any way, changed or omitted any of the responsibilities agreed to by TCM please advise for concurrence and revise the Agreement as required.

In preparing this Agreement the terms and conditions on the reverse side of your purchase order form were not considered. You are hereby advised that your following terms and conditions are deemed acceptable to Teledyne Continental Motors for inclusion as Additional Terms and Conditions of this Agreement:

Paragraphs 1, 5, 6, 8, 9, 10, 12, 13, (a), (b), (c), (d), (e), (f), (h), (i), (l), (m), and The Provisions of Section 202, Executive Order 11246.

PLFT'S EX. 20-L (A.S)
11/22/82 K.P.

A 1166

Plaintiff's Exhibit 51

We trust these changes will be acceptable to you. Should they cause any problems, please contact the undersigned.

Very truly yours,

TELEDYNE CONTINENTAL MOTORS,
A Division of Teledyne Industries, Inc.

M W Saunders

M. W. Saunders
Supervisor
Contract Administration

MWS:ejn

Enclosure

A 1167

Plaintiff's Exhibit 51

July 1, 1971

AGREEMENT

THIS AGREEMENT ENTERED INTO BY AND BETWEEN Teledyne Continental Motors, A Division of Teledyne Industries, Inc., which has offices in Muskegon, Michigan (hereinafter sometimes referred to as TCM or Seller), and American Marc Division of EON Corporation, 8831 South Aviation Boulevard, Inglewood, California (hereinafter sometimes referred to as EON or Buyer).

WITNESSETH

WHEREAS, there exists between the parties a purchase order dated 12 May 1971 and identified as Purchase Order Number M-1257 as amended by Modification Number 1 thereto dated 18 May 1971; and

WHEREAS, the parties wish to clarify and define the rights and duties of the respective parties; and

WHEREAS; both parties agree that this document will be deemed to state the intent of the parties.

NOW, THEREFORE, in consideration of these premises and mutual promises the parties hereby agree as follows:

ARTICLE I - Terms and Conditions

This Agreement identified as Amendment Number 2 to Purchase Order Number M-1257 replaces and supersedes the terms and conditions of said Purchase Order Number M-1257 dated 12 May 1971 and Amendment Number 1 thereof as if the terms and conditions stated herein were made part of Purchase Order Number M-1257 on its date of issuance.

PLF'T'S EX 20-14 (a.d)
11/30/72 A.P.

A 1168
Plaintiff's Exhibit 51

ARTICLE II - Description of Parts and Services Required

A. TCM shall furnish the following:

Item	Qty.	Unit	Part/Code Number Description	Unit Price	Total Price
0014 Thru 0014AD	4315	Each	FSN 6115-889-1446, Generator Set, Gasoline Engine Driven, 1.5 KW, Alternating Current, Air-Cooled, Portable, Tubular Frame, Shock Mounted. Type I-Model SF-1.5-MD, 1.5 KW, 1.0 Power Factor (PF) at 60 HZ, Single Phase, 2 Wire, 120/240 Volts. In accordance with Military Specification MIL-G-52282B dated 23 May 1968 with modifications as specified herein and DL 13214E0100, Revision "M" Dated 15 March 1969, as modified by Exhibit "A" attached hereto.	$360.	$1,566,360.00
0017	1	Lot	Adjustment, Cleaning, Repairs and Parts Replacement to Government-furnished engines as more fully described in Exhibit "B" attached hereto.	$105,000. (Not to Exceed)	$ 105,000.00
0018	1	Lot	Packaging and Marking of defective Government-furnished engines, parts, and accessories as more fully described in Exhibit "B" attached hereto.	5,000. (Not to Exceed)	$ 5,000.00

ARTICLE II - Delivery Schedule, Consignment and Marking Instructions

B. Delivery Schedule:

Item Number	Quantity	Date of Delivery
0014	450	71 November 12
0014	450	71 December 12
0014	352	72 January 12
0014AA	98	72 January 12
0014AA	450	72 February 12
0014AA	450	72 March 12
0014AA	254	72 April 12
0014AB	196	72 April 12
0014AB	450	72 May 12
0014AB	450	72 June 12
0014AB	156	72 July 12
0014AC	294	72 July 12
0014AC	4	72 August 12
0014AD	297	72 August 12

C. Consignment and Marking Instructions:

All shipments shall be made on Government Bills of Lading provided by the Seller. Consignment and marking instructions to be provided by the Buyer not less than forty-five (45) days prior to scheduled delivery.

A 1170

Plaintiff's Exhibit 51

ARTICLE III - Preparation for Delivery

A. Preservation, Packaging and Packing:

Preservation and packaging for Item 0014 shall be Level A/A of the commodity specification under which the item is procured.

B. Depreservation Guide:

A depreservation guide, DA Form 2258 shall be prepared for each unit. The guide shall be placed in a waterproof envelope marked "Depreservation Guide" and secured in a conspicuous and protected location on or near the operator's controls.

C. Marking:

All units shall be marked in accordance with the latest edition of MIL-STD-129.

ARTICLE IV - Option for Increased Quantity

A. Option Amount:

The buyer may increase the quantity of supplies called for herein by not more than one hundred per cent (100%) at a unit price not to exceed that in effect at the time of exercise of this option.

B. Time Period:

The buyer may exercise the option at any time within seventy-five per cent (75%) of the period of the delivery schedule. If for any reason this purchase order delivery schedule is not adhered to, it is agreed that the final date for exercise of this option shall be sixty (60) days before the final scheduled delivery as amended.

C. Right to Exercise Option in Increments:

The exercise of this option in a quantity less than the total quantity allowable does not preclude the exercise of further increases of said item up to the total allowable quantity increase.

D. Option Guarantee:

The buyer guarantees that any option quantities available to the buyer pursuant to buyer's prime contract shall be passed along to the seller.

E. Definitions:

The definition of "the period of the delivery schedule" as used in Paragraph B of Article IV is defined as the period of time between the first scheduled delivery and the last scheduled delivery as set forth in Article IIB hereof.

ARTICLE V - Specifications

Modifications to Military Specification MIL-G-52282B are set forth in Exhibit "C" attached hereto.

ARTICLE VI - Inspection, Acceptance and F.O.B. Point

A. The F.O.B. point and place of U.S. Government inspection and acceptance of supplies, packaging, and services shall be seller's plant Walt[illegible]boro, South Carolina. Seller's Inspection System shall conform to MIL-SPEC MIL-I-45208A.

B. The Seller shall perform the examinations and tests required by Data List 13214E0100 and related SQAP's listed therein.

C. If the Seller elects to change sources of supply for any of the purchase order components after acceptance of the first production item the Buyer reserves the right to conduct additional tests similar to the first production tests prior to acceptance of any item containing the new component. Any delivery delays occasioned by such re-testing shall not be considered an excusable delay, nor form the basis for adjustment in purchase order prices or delivery schedule.

D. EON hereby acknowledges the U. S. Government as its agent to inspect and accept all supplies under this purchase order. The U. S. Government will supply inspection for said supplies at TCM designated facility.

E. Acceptance or rejection of the supplies by the U. S. Government should be made as promptly as practical after presentation of the supplies for acceptance period. In the event supplies are not rejected within thirty (30) days after presentation, they will be deemed to have been accepted.

F. In case any supplies are defective in material and workmanship, the U. S. Government will have the right either to reject them or require their correction. Acceptance by the U. S. Government should be conclusive except as provided in ASPR 7-103.5(a). TCM sole responsibility for obligation for defects shall be to repair or to replace such defective material or parts which have been returned to it and shall be deemed by TCM to be attributable to faulty workmanship or material. Said responsibility or obligation for defects is granted in LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE, OR STATUTORY and all other obligations for liabilities including special or consequential damages or contingent liabilities, and no person is authorized to give any warranty or to assume any additional responsibility or obligation on TCM behalf, unless made in writing and properly authorized by an officer of TCM.

ARTICLE VII - Buyer-Furnished Property

The Buyer-furnished property described in Exhibit "D" attached hereto shall be furnished F. C. B. Teledyne Continental Motors, Walterboro, South Carolina. ?

ARTICLE VIII - Preparation and Distribution of DD Form 250 (MIRR)

A. In addition to the requirements of ASPR Appendix I, when preparing DD Form 250 the PRON Number, if cited in the purchase order, will be shown in Block 16.

B. The mailing address of the Purchasing Office and Inventory Control Manager is:

Commanding General
U. S. Army Mobility Equipment Command
Directorate of Procurement and Production
Attention: AMSME-PA (DD Form 250)
4300 Goodfellow Boulevard
St. Louis, Missouri 63120

ARTICLE IX - Instructions for Application, Deprocessing, Maintenance and Disposition of Buyer-Furnished Engines

The Seller shall comply with the instructions for application, deprocessing, maintenance, and disposition of Buyer-furnished engines as described in Exhibit "E" attached.

ARTICLE X - Accounting and Appropriation Data

CLIN	PRON Number	Document Numbe-	Qty.
0014	44-0-AA424-06-EG-EV	A58202-9330-6000	1252
0014AA	44-0-AA424-06-EG-EV	A58202-9330-6001	1252
0014AB	44-0-AA424-06-EG-EV	A58202-9330-6002	1252
0014AC	44-0-AA424-06-EG-EV	A58202-0070-6005	298
0014AD	44-0-AA424-06-EG-EV	A58202-0070-6006	297

Transportation: 21X2030 06B-8070-P4780-220-S23195

ARTICLE XI - Equipment and Identification Plates

A. The end item and major components will be identified with plates in accordance with the latest issue of MIL-STD-130 and will also indicate thereon the appropriate Serial Number(s) and year of delivery. The identification plates shall conform to the material requirements of the latest issue of Military Specification MIL-P-514 Exhibit "H".

B. The following Federal Stock Number and Model Number are assigned for this contract: FSN 6115-889-1446, DOD Model Number MEP-015A.

ARTICLE XII - DA Form 2408-8

The Seller shall prepare and ship the DA Form 2408-8 in accordance with the attached Exhibit "F". This will not constitute a line item of the purchase order and will not be included as a line item on the DD Form 7 0.

ARTICLE XIII - Preproduction Models

The Seller shall produce and make available to the Buyer two (2) generator sets in accordance with the schedule listed below. These generator sets are provided as preproduction models for Buyer's use in Preproduction Testing.

Schedule

6 July 1971 Preproduction model ready for inspection by Government personnel.

7 July 1971 Seller's test schedule complete.

7 July 1971 Examination of Preproduction model by Government personnel.

Instructions for shipment of the preproduction models to the preproduction test site will be provided by the Buyer. All costs for preproduction testing shall be borne by the Buyer.

The models tested shall be returned to and retained by the Seller throughout production to serve as a standard of acceptance by the Government Quality Assurance Representative. These preproduction models will be shipped as the last units on the purchase order after refurbishment to "like new" condition. Refurbishment costs will be borne by the Seller.

A 1175

Plaintiff's Exhibit 51

ARTICLE XIV - Payment Terms

The Seller's payment terms are net 30 days. — No!

ARTICLE XV - DMS Priority Rating

The Defense Materials Priority Rating applicable to this purchase order is DO-C-9, Class B.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the _____ day of _____, 1971.

TELEDYNE CONTINENTAL MOTORS,
A DIVISION OF TELEDYNE INDUSTRIES, INC.

By: M W Saunders

M. W. Saunders
Supervisor, Contract Administration

AMERICAN MARC DIVISION OF
EON CORPORATION

By: _____

A 1176

Plaintiff's Exhibit 51 EXHIBIT "A"

CHANGES TO DL13214E0100, REVISION "M" DATED 15 MARCH 1969

In order to convert from the nylon fuel tank to the steel fuel tank, the following changes are made to DL13214E0100, Revision "M" dated 15 March 1969:

a. Delete the following drawings:

C13213E4064, Rev. A, 9 March 1965, Neck, Fuel Tank
D13217E6385, 15 March 69, Bracket Fuel Tank Top
C13217E6386, 15 March 69, Bracket Fuel Tank Bottom
C13217E6387, 15 March 69, Strap
B13217E6389, 15 March 69, Adhesive
C13217E6390, 15 March 69, Fuel Tank Assembly 1.5KW Generators
D13217E6391, 15 March 69, Tank, Fuel, Nylon
C13217E6392, 15 March 69, Filler, Neck
D13214E0100, Rev. D, 15 March 69, Generator Set
PL13214E0100, Rev. D, 15 March 69, Parts List

b. Add the following drawings:

D13214E0110, Rev. F, 15 April 70, Bracket, Fuel Tank
C13214E0111, Rev. D, 15 April 70, Liner, Bracket Fuel Tank
D13214E0112, Rev. D, 15 April 70, Tank, Fuel, Engine
C13214E0113, Rev. D, 15 April 70, Neck, Filler
D13214E0100, Rev. G, 1 May 70, Generator Set
PL13214E0100, Rev. G, 1 May 70, Parts List

In order to delete the canvas bag, the following drawing deletion is made to DL13214E0100, Revision "M" dated 15 March 1969:

a. Delete:

D13214E0156, Rev. A, 30 September 65, Cover, Canvas.

Drawings 13214E0202, Rev. C, Rotor Assembly Generator, and 13214E0203, Rev. E, Housing Assembly Generator, of DL13214E0100, Rev. M dated 15 March 1969 are changed as follows:

a. 13214E0202-The diameter in Zone B-5 is changed from "2.781/2.779" to "3.781/3.779".

b. 13214E0203-The concentricity requirement is changed from ".003" to ".008".

A 1177

Plaintiff's Exhibit 51

EXHIBIT "B"

WORK DESCRIPTION - ITEMS 0017 AND 0018

ITEM 0017

For adjustments, cleaning, repairs and replacement of repair parts pursuant to paragraphs (c), (d) f (second sentence only), and (e) of Exhibit "E" the Seller shall be paid at an hourly rate of $9.00 for each hour worked. The Seller shall not exceed three (3) manhours per engine without prior approval of the Government representative. The maximum total amount authorized for payment for this work SHALL NOT EXCEED $105,000.00. The Seller shall maintain an accurate daily record of actual manhours worked by each engine serial number, description of work performed, name of certified mechanic. Such record shall be maintained at the engine repair work station, shall be accessible to the Government representative on site and shall be available for audit by the Government upon request.

ITEM 0018

For marking and packaging of defective Buyer-furnished engines, parts and accessories pursuant to paragraphs (i), (j) and (k) of Exhibit "E" the Seller shall be paid at an hourly rate of $9.00 for each hour worked. The Seller shall be allowed one-half hour per engine for marking and packaging. The Seller shall not be paid for any time in excess of one-half hour per engine nor shall the Buyer deduct any time less than one-half hour per engine. The Seller shall be paid the actual packaging time for marking and packaging defective Buyer-furnished parts and accessories. The maximum total amount authorized for payment for this work SHALL NOT EXCEED $5,000.00. This amount shall be payable for packaging NOT MORE THAN 598 engines, (598 engines x 1/2 hour per engine x $9.00 per hour = $2,241.00 and a total of not more than 306 manhours for packaging parts and accessories, 306 hours x $9.00). The Seller shall maintain a daily record of the number of engines packaged and the time expended for packaging parts and accessories.

PAYMENT FOR ITEMS 0017 AND 0018

To receive payment for Items 0017 and 0018, the Seller will submit an invoice(s) once each month for all work performed during the preceding period.

A 1178

Plaintiff's Exhibit 51

EXHIBIT "C"

MODIFICATIONS TO MILITARY SPECIFICATION MIL-G-52282B

Military Specification MIL-G-52282B, dated 23 May 1968, is amended as follows:

Para 2.1 Applicable Documents

Under SPECIFICATIONS

Military

Add:

MIL-E-55301 - Electromagnetic Compatibility

Under STANDARDS

Military

Delete:

MIL-STD-461 - Electromagnetic Interference Characteristics, Requirements for Equipment.

Para 3.5 Electromagnetic interference - Delete in its entirety and substitute: Para 3.5 - Electromagnetic compatibility - The electromagnetic compatibility of the set shall be in accordance with MIL-E-55301, tactical class.

Para 3.8.1 Engine - Delete "(FSN 2805-714-8553)".

Para 4.7 Test schedule - In Table II under Generator Set tests add Note 4 notation to following tests: Humidity, Regulator and governor stability and transient response, Quality Conformance Endurance Run 50 hrs.

Para 4.7 Test schedule - At the end of this paragraph, add Note 4 as follows: "4 Omit para 4.1.1.3.2(h)."

Para 4.8.4 Electromagnetic interference - Delete in its entirety and substitute: Para 4.8.4 - Electromagnetic compatibility - The preproduction model, equipped for reduction of radio interference in accordance with para 3.5, shall be tested as specified in MIL-E-55301. The supplier shall furnish to the contracting officer the reports required by MIL-E-55301, except that the time interval for submission shall be as specified (see 6.7). Upon approval of the reports by the contracting Officer and provided all other requirements of the specification are met, the preproduction model shall be used as a model for all production sets. Disapproval of the reports shall constitute failure of this test.

MODIFICATIONS TO MILITARY SPECIFICATION MIL-G-52282B:

Para 5.1.1.1.2 — Fuel system - Delete last sentence of this paragraph, which reads "The fuel tank shall be filled with the preservative lubricating oil specified herein and then shall be drained."

Para 6.2 — Ordering data - At the end of this paragraph, add "(i) Time interval for submission of electromagnetic compatibility reports (see 4.8.4 and 6.7).

Para 6.5 — Government-furnished property - In third line of this paragraph, delete "(FSN 2005-714-8553)".

Add:
Para 6.7 — Electromagnetic compatibility.- The contracting officer should submit a copy of the test report (see 4.8.4) to the Commanding General, U. S. Army Electronics Command, ATTN: AMSEL-RD-GF, Ft. Monmouth, New Jersey.

Fig MD23.1 — IV Typical Oscillograph Traces of Voltage Rise and Dip - At bottom trace change formula to read:

"% DIP = $100 - \left(\frac{72}{96} \times 100\right)$

A 1180

Plaintiff's Exhibit 51

EXHIBIT "D"

SCHEDULE OF BUYER-FURNISHED PROPERTY

The Buyer will make available to the Seller certain items of Government property as described below:

Per Unit Qty.	Description	Shipping Point	Weight Per Unit	Dimensions L x W x H (in inches)
1 each	3 HP MIL-Std. Engine FSN 2805-072-4871	Granite City, Ill.	51 lbs.	15-1/2" x 15" x 16-1/2"
1 each	TM 5-6115-323-15 Technical Manual	St. Louis, Mo.	1 lb.	10" x 8" x 1/2"
1 each	TM 5-2805-257-14 Technical Manual (Engine)	St. Louis, Mo.	1 lb.	10" x 8" x 1/2"
1 each	TM 5-2805-257-24P Technical Manual (Engine)	St. Louis, Mo.	1 lb.	10" x 8" x 1/2"
1 each	LO 2805-257-12 Lubrication Order	St. Louis, Mo.	2 oz.	10" x 8" x 1/16"

The Buyer will furnish the Seller the following repair parts for the replacement of parts on Buyer-furnished 3 HP MIL-STD engines pursuant to the article entitled "Application, Deprocessing, Maintenance and Disposition of Buyer-furnished Engines - 1-1/2 through 20 HP".

FSN	Drawing P/N	Nomenclature	Quantity (Per each 5000 Engines Furnished)
2920-225-4841	13214E8180	Kit, Ignition Repair	200
2920-810-7082	MS51009-1	Spark Plug	150
2805-797-4642	9786E44-2	Gasket, Rocket Cover	5
2910-917-4735	13214E8192	Kit, Carb. Replacement	100
2910-575-3498	9786E8A2	Pump Assy., Fuel	100
2990-103-8793	13206E0434	Gasket, Breaker Cover	50
2920-792-9777	13206E1460-9	Lead Electrical	40
2920-797-5897	9786E128	Coil Assembly	200
2920-788-0432	13212E8763	Noise Filter	35
2940-832-5673	13211E8448	Air Cleaner Assembly	4
2940-225-4842	13211E8449	Element, Air Cleaner	20
2805-953-1563	13214E8187	Parts Kit, Duct Air Cleaner	10
2990-867-8736	9786E44	Cover Assy., Rocker	5

A 1181

Plaintiff's Exhibit 51

APPLICATION, DEPROCESSING, MAINTENANCE AND DISPOSITION OF BUYER-FURNISHED ENGINES - 1-1/2 THROUGH 20 HP

(a) The Military Standard Engine as furnished by the Buyer to the Seller, which is required to be incorporated into and form an integral part of an end item to be furnished under this purchase order, shall not be modified by the Seller in any manner except as authorized by the Buyer.

(b) The protection of Buyer-furnished property, as prescribed by sub-paragraph (f) of the purchase order clause entitled "Government Property (Fixed Price) (1968 Sep)", ASPR 13-702, shall require indoor storage or its equivalent at no additional cost to the Buyer. Engines shall be used in end item production on a "first-in-first-out" basis.

(c) The engines shall be deprocessed, operated, adjusted and repaired, and parts replacements made prior to installation in the end item as specified herein.

(d) Prior to installing the engines in the end item, and at no additional cost to the Buyer, the Seller shall deprocess engine as per applicable Technical Manual, and:

a. Remove tape, seals or plugs (retain the plugs and seals for reuse) from:

1. Exhaust system
2. Fuel inlet hole on fuel pump
3. Tachometer drive
4. Wiring harness connector
5. Air Cleaner

b. Bolt engine to stand.

c. Add unused oil to crankcase and air cleaner according to instruction on Lubrication Order.

d. Manually rotate engine to insure freedom of all moving parts in the engine.

e. Prime fuel lines, fuel pump and carburetor with applicable clean fuel.

f. Start engine and operate at no load for a minimum of five (5) minutes. In the event the engine does not start, or does not operate properly, the Seller shall clean, adjust and/or make minor repairs by replacement of parts furnished as required to effect proper engine operation.

(e) If, after performing the services prescribed in paragraph (d) on Page -1- of this exhibit, the engine operates properly, but later fails after installation in the end item, the Seller shall reject the procedure prescribed in f. above. If minor repair is not effective, the defective engine shall be rejected and reported to the Buyer for disposition instructions.

(f) Replacement parts shall be furnished by the Buyer at no cost to the Seller.

(g) The Seller shall certify in writing that only fully-qualified mechanics are assigned to deprocess, diagnose engine problems, and make adjustments, repairs and tune-ups in a timely and efficient manner.

(h) In accordance with paragraph (g) of the clause entitled "Government Property (Fixed Price) (1968 Sep)", ASPR 13-702, any damage inflicted to the engine while work hereunder is being performed shall be the responsibility of the Seller.

(i) The Seller shall report on AMC Form 1229 all defective and rejected Buyer-furnished property identified from work performed under paragraphs (d) and (e) above. The reason for rejection or defectiveness noted shall be clearly stated, and shall contain a resume' of the technical analysis of findings. The Seller shall prepare the AMC Form 1229, have the report verified by the Government Quality Assurance Representative, and furnish and distribute it in accordance with instructions provided by the Buyer. The report must be prepared to cover rejected Buyer-furnished property within ten (10) working days after determination that the material is unserviceable. Defective but repaired material shall be reported on AMC Form 1229 within thirty (30) days after repair.

(j) Disposition instructions for engines, parts and accessories which fail to operate properly after all the provisions of this article have been accomplished shall be provided on a monthly basis. The Seller shall pack engines in their original cartons, boxes, or racks and parts shall be packaged in the original container of the replacement part whenever possible. As a minimum, the packaging level shall be equivalent to that in which they were received and, in any event, adequate to prevent physical damage during shipment to destination. Each package shall be marked with FSN, quantity, and the letter "R" indicating rejected parts. The outside of the shipping container shall include the Seller's name; Buyer's prime contract number (DAAK01 69-C-A359) and annotation: "Rejected Engine Parts" or "Rejected Engine" as applicable.

Shipment shall be made F. O. B. the Seller's plant on Government Bills of Lading, and shall be shipped to the following destination unless otherwise directed by the Buyer.

"Tooele Army Depot"
Tooele, Utah
(Ship Engines Only) M/F: USAMECOM Accountability
Condition Code "F"

(The shipping information for rejected/unserviceable replacement parts shall be furnished by the Buyer after receipt of each separate AMC Form 1229.)

As a matter of clarification, rejected engines will automatically be returned to Tooele Army Depot. It will not be necessary for the Seller to await separate disposition instructions from the Buyer. AMC Form 1229 will continue to be submitted as required. However, the Seller will await disposition instructions following submission of each separate AMC Form 1229 on rejected/unserviceable replacement parts.

(k) Engine shipping racks and/or reusable containers applicable to Military standard engine models 2A042, 4A084 and A042 shall be made available for return to the Government within thirty (30) days of receiving disposition instructions from the Buyer. The Seller shall provide GBL's prior to emptying the engine containers and racks. The Seller shall not retain or utilize the engine racks or reusable containers for purposes other than storage or shipment of the military standard engines.

(l) On completion of this purchase order, the Buyer's property administration and the Seller shall inventory and report any remaining new engines, new unused parts and engine racks to the Buyer for disposition instructions. The inventory shall include the following information for each item:

FSN	MFR Part No.	Item Name	Qty.

A 1184

Plaintiff's Exhibit 51

EXHIBIT "F"

DA FORMS 2408-8 (1 JAN 64)

The Seller will ship each item of equipment required to be furnished under this purchase order an activated Equipment Log as set forth hereinafter. The log will include DA Forms 2408-8 to be furnished by the Buyer. The Seller will prepare DA Form 2408-8 as follows:

a. Block 1 - Enter the organization or agency of the inspector who accepted the equipment.

Block 2 - Enter the location of the organization or agency.

Block 3 - Enter the Organization Identification Code.

Block 4 - Enter the serial number of the equipment listed in Block 5. If the equipment serial number exceeds ten digits, record only the last ten digits in the space provided.

Block 5 - Enter the noun nomenclature of the equipment for which the form was initiated.

Block 6 - Enter the model designator of equipment for which the form was initiated.

Block 7 - Enter the registration number, if none, leave blank.

Block 8 - Enter the operator's TM manual or the manufacturer's reference as applicable.

Block 9 - Enter the Federal Stock Number of equipment listed in Block 5.

Block 10 - Enter year of manufacture.

Block 11 - Enter the manufacturer's name and the manufacturer's code number.

Block 12 - Enter acquisition cost.

Block 13 - Enter the contract number.

Block 14 - Enter the purchase order number.

Block 15 - Leave blank.

Block 16 - Enter attachments or components which accompany the end item. The engines for all equipment on which this form is to be maintained will be entered in accordance with instructions set forth below.

(1) Manufacturer - Enter the manufacturer's name and code of the attachment or component.

(2) Model - Enter the model of the attachment or component.

(3) Serial Number - Enter the manufacturer's serial number of the attachment or component.

(4) Item Description - Enter noun nomenclature. When listing accessory power or powered equipment, enter the noun nomenclature and capacity. When listing carrier data, list noun nomenclature of the component or attachment and the Federal Stock Number of carrier. When listing attachments, enter noun nomenclature and capacity, if applicable.

(5) Federal Stock Number - Enter the FSN of the attachment or component.

Block 17 - Leave blank.

b. The Seller will complete DA Forms 2408-8 which will be submitted by the Seller to the Buyer for approval and acceptance. The Government Inspector will verify the data and sign the Form 2408-8 in Block 18 and enter the Julian date in Block 19. The Seller will attach copy 3 of Form 2408-8, place them in a waterproof pack together with such other forms as may be supplied by the Buyer and attach to the end item of equipment to be furnished hereunder. The Buyer will furnish such other forms as required by TM 38-750 (Jan 64). The Buyer will distribute copies 1 and 2 of DA Form 2408-8 in accordance with paragraph 4-12d of TM 38-750.

A 1186

DEFENDANTS' EXHIBIT A

May 11, 1971

AGREEMENT DATED MAY 11, 1971

ONLY COPY AVAILABLE

Mr. Harold Rouse
Vice President of Operations
TELEDYNE-CONTINENTAL MOTORS
DIVISION OF TELEDYNE INDUSTRIES, INC.
Muskegon, Michigan

Dear Mr. Rouse:

This Agreement covers the Sub-Contract for approximately 4357 [illegible] with Government furnished engines.

It is agreed...that CONTINENTAL MOTORS, A DIVISION OF TELEDYNE INDUSTRIES, INC., will compensate G. R. Walper & Associates 750 East Green Street Pasadena, California, 91103, at the rate of $5.00 per unit CONSULTING SERVICES and for performing interface service for CONTINENTAL MOTORS, only if they are successful in obtaining aforementioned order from AMERICAN MFG. A DIVISION OF FMC CORPORATION @ a rate of $350.00 per each set.

Twenty-five percent of the total amount or $5,438.75 is payable 30 days net AFTER RECEIPT OF ORDER...this amount will be reduced from the total remuneration as UNITS ARE SHIPPED AND PAID FOR. The balance owed will be paid monthly as units are shipped and paid for.

EGW 6/2/71

If insufficient generator sets are produced at $5.00 per unit to meet the advance payment, ~~[illegible]~~ will immediately repay the difference as a debt due and owing to Teledyne Continental Motors, however, if the contract should be cancelled due to the fault of Teledyne Continental Motors, this shall not apply and G. R. Walper and Associates may retain the advance payment.

EXH. L
DATE 9/21/71 H. PROKOP
Per Idem

LUCIEN R. WALPER
Pres. G. R. WALPER & ASSOC.

Date:

H. W. ROUSE
Vice Pres. of Operations
TELEDYNE-CONTINENTAL MOTORS, Div. of Teledyne, Inc.
Date: 5/11/71

A 1187

DEFENDANTS' EXHIBIT C

LETTER DATED OCTOBER 9, 1971

CONTINENTAL MOTORS
[illegible] 3
Box 4[illegible]
WATERBORO SOUTH CAROLINA 29488
[illegible]321 CABLE CONTENT

October 9, 1971

American Marc Division
Eon Corporation
8831 South Aviation Boulevard
Inglewood, California 90301

Attn: Mr. M. J. Leonard

Gentlemen:

Subject: Your Purchase Order Number M-1257
for 4321 Each 1.5 KW Generator Sets

As a result of our meeting in New York City on September 1, 1971, verbal agreement was reached on the majority of points set forth in M. Saunders letter dated July 8, 1971. As you will recall, that letter contained all of the items which we requested be added to the original Purchase Order number 1257. Such supplementation was, in our opinion, necessary to effect a complete legal understanding and agreement between American Marc and TCM. Subsequently, eight revisions to the Purchase Order were issued in lieu of incorporating the agreement attached to M. Saunders' letter. Unfortunately, in this transition to purchase order revisions several previously agreed upon points were either overlooked or re-evaluated by American Marc and considered unnecessary. Our top management has given this matter their full attention and it is the consensus that the following items must be incorporated into the purchase order to effect a complete and equitable agreement between American Marc and TCM:

1. In modifying the terms and conditions shown on the reverse side of your purchase order, five deletions are required, i.e.
   (g) Termination including sub-paragraphs (1), (2), (3) and (4).
   (j) Sub-contracting
   (k) Domestic Articles
   (m) Notice to Government of Labor Disputes
   (o) Limitation of Profit

2. In reference to M. Saunders' letter, Article IV, Pg. 5 - "Option For Increased Quantity" must be incorporated including paragraphs: A - Option Amount, B - Time Period, C - Right to Exercise Option In Increments, D - Option Guarantee and E - Definitions

A 1188

Defendants' Exhibit C

Also on page 5 of the referenced letter Article V relative to Specifications must be incorporated including the accompanying detail on Exhibit "H".

4. Page 7 of the referenced letter Article VII, Buyer Furnished Property, must be incorporated along with related Exhibit "D".

5. Page 7 of the referenced letter Article VIII, Preparation and Distribution of DD Form 250 (MIRR) and Article IX, Instructions For Application, Depreservation, Painting and Preservation of Buyer Furnished Engines (including Exhibit "L") must be incorporated.

~~Page 8 of the referenced letter Article XII, DAPCR 2408-8 must be incorporated.~~

7. On Purchase Order Revision 1257-5 the changes made to DL 13214E0[illegible]ev. M dated 15 Mar 1969, are incomplete in that they a[illegible]nt as to detail drawings 13214E0202 and 13214E0203 (See Exhibit "A" for detail).

8. Written confirmation of our verbal agreement must be made regarding payment terms, i.e.
   (a) Upon Government approval off from acceptance test, Generator Sets in lots of 150 each will be invoiced directly to American Marc, Inglewood, California, for payment at $360.00 per unit. Payment in full is required within 30 days from date of invoice and should be forwarded to Teledyne Continental Motors, A Division of Teledyne Industries, Inc., P. O. Box 3960, Atlanta, Georgia 30302.
   (b) For item 0017, Adjustment, Cleaning, Repairs and Parts Replacement to Government Furnished Engines and 0018, Packaging and Marking of Defective Government Furnished Engines, charges will be accumulated and invoices will be rendered on a regular basis. Payment in full will be required within 30 days from date of invoice and must be forwarded to the same Atlanta payment address as noted in the preceding paragraph.
   (c) These payment terms are firm and deferred action in excess of 30 days could result in suspension of further shipments until payment is received.

In closing, since initial shipment is imminent, we trust you will give this matter your prompt attention and approval.

Sincerely,

TELEDYNE CONTINENTAL MOTORS
A Division of Teledyne Industries, Inc.

W. A. Anderson
Contract Administration Chief

WAA/lh

A 1189

DEFENDANTS' EXHIBIT D

LETTER DATED SEPTEMBER 10, 1971

TELEDYNE
CONTINENTAL MOTORS
205 MARKET STREET
MUSKEGON, MICHIGAN 49443
(616) 724-2151 CABLE: CONTENT

September 10, 1971

American Marc Division
EON Corporation
8831 So. Aviation Blvd.
Inglewood, California 90301

Attention: Mr. M. J. Leonard

Dear Mr. Leonard:

Subject: Quotation for a total of 3,744 1.5 KW Generator Sets

We are pleased to submit the following quotation for a total of 3,744 1.5 KW generator sets:

Quantity	FSN	Description	Unit Price
1,872 (none set aside)	6115-889-1446	Generator Sets	$ 334.50
1,872 (set aside portion)	6115-889-1446	Generator Sets	$ 334.50

If First Article Test is not required the price can be reduced by $3.00 per unit.

Included in the above price is $3.50 per unit awarded for your consulting fee.

Delivery, packaging and quality assurance provisions will be as specified in IFB # DSA-400-72-B-0311.

Payment: Net 30 days.

F.O.B. point: Our Walterboro, South Carolina plant.

A 1190

Defendants' Exhibit D

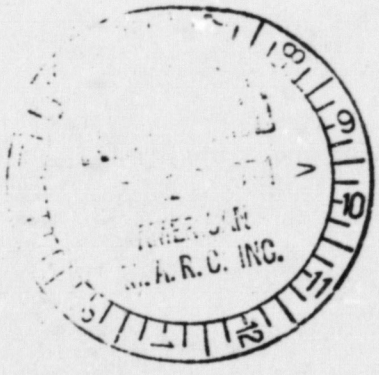
Terms and conditions for a firm order will be similar to the provisions recently negotiated with you by our Mr. W. A. Anderson for your purchase order No. M1257.

We thank you for the opportunity to submit this quotation.

Sincerely,

H. W. Rouse
Vice President, Operations

/da



A 1191

DEFENDANTS' EXHIBIT F

LETTER DATED JULY 8, 1971

Not acceptable
See Cover Letter
Sept 14, 1971 to
Teledyne -

TELEDYNE
CONTINENTAL MOTORS

76 NORTH CITY STREET
MUSKEGON, MICHIGAN 49442
(616) 724 2151 CABLE CONTENT

July 8, 1971

American Marc Division
EON Corporation
8831 South Aviation Boulevard
Inglewood, California 90301

Attention: Mr. J. Leonard

Gentlemen:

Subject: Purchase Order Number M-1257

Enclosed herewith for your signature is a signed Agreement to be considered Amendment Number 2 of the subject purchase order. The reason this Agreement is presented is that we feel that the purchase order should stand on its own inasmuch as we are contracting with American Marc and not the U. S. Government.

In preparing this Agreement we attempted to define all of Teledyne Continental Motors' responsibilities as agreed to between yourself and our Messrs. H. Rouse and H. Coleman. If in the preparation of this Agreement we have, in any way, changed or omitted any of the responsibilities agreed to by TCM please advise for concurrence and revise the Agreement as required.

In preparing this Agreement the terms and conditions on the reverse side of your purchase order form were not considered. You are hereby advised that your following terms and conditions are deemed acceptable to Teledyne Continental Motors for inclusion as Additional Terms and Conditions of this Agreement:

Paragraphs 1, 5, 6, 8, 9, 10, 12, 13, (a), (b), (c), (d), (e), (f), (h), (i), (l), (m), and The Provisions of Section 202, Executive Order 11246.

A 1192

Defendants' Exhibit F

American Marc Division
Attention: Mr. J. Leonard

July 8, 1971
Page - 2 -

We trust these changes will be acceptable to you. Should they cause any problems, please contact the undersigned.

Very truly yours,

TELEDYNE CONTINENTAL MOTORS,
A Division of Teledyne Industries, Inc.

M W Saunders

M. W. Saunders
Supervisor
Contract Administration

MWS:ejn

Enclosure

A 1193

DEFENDANTS' EXHIBIT J

MEMO DATED JULY 17, 1972

7/17/72

Meeting - EON - (Brooklyn) - Boardroom ?

Attending - N. Anton, J. Leonard, O. Odell, JSL, JAB, A. Beutel

Anton - very cordial - explained why YOY might be interested in EON.

Took 300K out of BK asset per B/D decision.

100K for tapes. 200K more as ?

Books & records in LA - can't give detailed accting.

Leonard (A+P left recm) - not very good business - very hard for him to work w/these people.

Anton - will talk to Seybold

ONLY COPY AVAILABLE

DEFT. EX. N FOR I. D.
B. ROTHMAN 11/22/72

A 1194

DEFENDANTS' EXHIBIT O

LETTER DATED OCTOBER 9, 1971

CONTINENTAL MOTORS
ROUTE NO 3
BOX 40
WALTERBORO SOUTH CAROLINA 29488
(803) 538-2121 CABLE CONTENT

American Marc Division
Eon Corporation
8831 South Aviation Boulevard
Inglewood, California 90301

October 9, 1971

Attn: Mr. M. J. Leonard

Gentlemen:

Subject: Your Purchase Order Number M-1257
For 4351 Each 1.5 KW Generator Sets

As a result of our meeting in New York City on September 1, 1971, verbal agreement was reached on the majority of points set forth in M. Saunders letter dated July 8, 1971. As you will recall, that letter contained all of the items which we requested be added to the original Purchase Order number 1257. Such supplementation was, in our opinion, necessary to effect a complete legal understanding and agreement between American Marc and TCM. Subsequently, eight revisions to the Purchase Order were issued in lieu of incorporating the agreement attached to M. Saunders' letter. Unfortunately, in this transition to purchase order revisions several previously agreed upon points were either overlooked or re-evaluated by American Marc and considered unnecessary. Our top management has given this matter their full attention and it is the consensus that the following items must be incorporated into the purchase order to effect a complete and equitable agreement between American Marc and TCM:

1. In modifying the terms and conditions shown on the reverse side of your purchase order, five deletions are required, i.e.
(g) Termination including sub-paragraphs (1), (2), (3) and (4).
(j) Sub-contracting
(k) Domestic Articles
(m) Notice to Government of Labor Disputes
(o) Limitation of Profit

American Marc will take out

2. In reference to M. Saunders' letter, Article IV, Pg. 5 - "Option For Increased Quantity" must be incorporated including paragraphs: A - Option Amount, B - Time Period, C - Right to Exercise Option In Increments, D - Option Guarantee and E - Definitions

OK American Marc will accept

208 - See ltr. 2

A 1195

Defendants' Exhibit O

CONTINENTAL MOTORS

ONLY COPY AVAILABLE

American Marc will not accept

~~Also on page 5 of the referenced letter Article V relative to Specifications must be incorporated including the accompanying detail on Exhibit "C".~~

4. Page 7 of the referenced letter Article VII, Buyer Furnished Property, must be incorporated along with related Exhibit "D".

T.M. will accept by letter

5. Page 7 of the referenced letter Article VIII, Preparation and Distribution of DD Form 250 (MIRR) and ~~Article IX, Instructions For Application, Deprocessing, Maintenance and Disposition of Buyer Furnished Engines (including Exhibit "E") must be incorporated.~~

~~not necessary~~ ~~Accept~~ ~~in writing~~ ~~mutual agreement~~

~~Page 8 of the referenced letter, Article XII, DA Form 2408-8 must be incorporated.~~

American Marc will correct

7. On Purchase Order Revision 1257-5 the changes made to DL 13214E0100, Rev. M dated 15 Mar 1969, are incomplete in that they are silent as to detail drawings 13214E0202 and 13214E0203 (See Exhibit "A" for detail).

American Marc will accept.

8. Written confirmation of our verbal agreement must be made regarding payment terms, i.e.
   (a) Upon Government approval off from acceptance test, Generator Sets in lots of 150 each will be invoiced directly to American Marc, Inglewood, California, for payment at $360.00 per unit. Payment in full is required within 30 days from date of invoice and should be forwarded to Teledyne Continental Motors, A Division of Teledyne Industries, Inc., P. O. Box 3960, Atlanta, Georgia 30302.
   (b) For item 0017, Adjustment, Cleaning, Repairs and Parts Replacement to Government Furnished Engines and 0018, Packaging and Marking of Defective Government Furnished Engines, charges will be accumulated and invoices will be rendered on a regular basis. Payment in full will be required within 30 days from date of invoice and must be forwarded to the same Atlanta payment address as noted in the preceding paragraph.
   (c) These payment terms are firm and deferred action in excess of 30 days could result in suspension of further shipments until payment is received.

In closing, since initial shipment is imminent, we trust you will give this matter your prompt attention and approval.

Sincerely,

TELEDYNE CONTINENTAL MOTORS
A Division of Teledyne Industries, Inc.

W. A. Anderson
Contract Administration Chief

W. A. Anderson Am Marc agrees to make the above changes to P.O. # M-1257-C clarify by letter which is specified. A Anderson

A Anderson 10/9/71
A Campbell 10/9/71

WAA/lh

A 1196

DEFENDANTS' EXHIBIT U

LETTER DATED NOVEMBER 27, 1974

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

BREED, ABBOTT & MORGAN
ONE CHASE MANHATTAN PLAZA
NEW YORK, N.Y. 10005

TELEPHONE
(212) 944-4800

CABLE ADDRESS
BREEDABOT

TELEX
12-5672

WASHINGTON OFFICE
815 CONNECTICUT AVENUE N.W.
WASHINGTON, D.C. 20006

November 27, 1974

Messrs. J[illegible], Levy & Ruback
225 Broadway
New York, New York 10007

Re: Matter of Eon Corporation,
et al. - No. 73B44(E.D.N.Y.)

Dear Sirs:

Please be advised that claimant, Teledyne Industries, Inc., having had its objections to confirmation of the arrangement dismissed by the Court, hereby elects to take the Convertible Preferred stock under the Plan. This is specifically without waiver of or other prejudice to its rights to proceed in the case presently pending before the Honorable Whitman Knapp in the Southern District of New York.

Sincerely yours,

Charles M. Mitchell

Charles M. Mitchell
Attorney-in-Fact

cc: Honorable Manuel J. Price

A 1197

Defendants' Exhibit U

ONLY COPY AVAILABLE

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

BREED, ABBOTT & MORGAN
ONE CHASE MANHATTAN PLAZA
NEW YORK, N.Y. 10005

TELEPHONE
212 943-8000
CABLE ADDRESS
BREEDABBOT
TELEX
12-5572

WASHINGTON OFFICE
815 CONNECTICUT AVENUE NW
WASHINGTON, D.C. 20006

November 27, 1974

Messrs. Levy, Levy & Ruback
225 Broadway
New York, New York 10007

Re: Matter of Eon Corporation,
et al. - No. 73B44(E.D.N.Y.)

Dear Sirs:

Please be advised that claimant, Teledyne Industries, Inc., having had its objections to confirmation of the arrangement dismissed by the Court, hereby elects to take the Convertible Preferred stock under the Plan. This is specifically without waiver of or other prejudice to its rights to proceed in the case presently pending before the Honorable Whitman Knapp in the Southern District of New York.

Sincerely yours,

Charles M. Mitchell

Charles M. Mitchell
Attorney-in-Fact

cc: Honorable Manuel J. Price

A 1198

Defendants' Exhibit U

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

BREED, ABBOTT & MORGAN

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

TELEPHONE
12 964-4800

CABLE ADDRESS
BREEDABBOT

TELEX
12-5572

WASHINGTON OFFICE
815 CONNECTICUT AVENUE N.W.
WASHINGTON, D.C. 20006

November 27, 1974

Messrs. Levy, Levy & Ruback
225 Broadway
New York, New York 10007

Re: Matter of Eon Corporation,
et al. - No. 73B44(E.D.N.Y.)

Dear Sirs:

Please be advised that claimant, Teledyne Industries, Inc., having had its objections to confirmation of the arrangement dismissed by the Court, hereby elects to take the Convertible Preferred stock under the Plan. This is specifically without waiver of or other prejudice to its rights to proceed in the case presently pending before the Honorable Whitman Knapp in the Southern District of New York.

Sincerely yours,

Charles M. Mitchell

Charles M. Mitchell
Attorney-in-Fact

cc: Honorable Manuel J. Price

Due and timely service of ONE copies
of the within APPENDIX is hereby
admitted this 26TH day of OCTOBER 1976

.....
Attorney for APPELLEE